

THE
LAWES
OF
VIRGINIA
Now in Force:

Collected out of the *Assembly Records*, and
Digested into one Volume.

Revised and Confirmed by the *Grand Assembly*
held at James-City, by Prorogation, the 2^d of
March 1661. in the 13th. Year of the Reign
of our Sovereign Lord

King Charles the II.



L O N D O N :

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For the Honourable

S^r William Berkeley.

Most Honoured Sir,



Ince you care impos'd on me and the Clerk of the Assembly, the charge to peruse our Laws, and to reduce them into as good a Form, as our weak abilities could perform; I thought my self obliged to render you an accompt of our performance; which might perhaps, have been better done, had not the Troubles of the Indians, and Quakers, and other emergent Occasions of the Publique, depriv'd me of much of that time I had devoted to that most serious Employment.

However, Sir, as they are (since the Assembly hath approv'd them, and Ordered them to be put in Print) I thought it my duty to Dedicate them to your Patronage, who, of the most and best of them, was the only Author.

Little addition there is to what your self had done in the time of your Government, only what vitious Excrescencies had grown in the body of them, by the corrupt humor of the times, we have throughly purg'd them of, that we might not any where leave unrazed the memory of our enforc'd Defection from his Sacred Majesty; for whom, your prudent care so long preserved the Countrey, both from the ruine we were almost brought to by that desperate Warr with Opechânkevogh, whose Conquest (had not the Cloudiness of those times obscured the glory of it) could not have lost the esteem of being one of the most important Services, that, perhaps, had been rendred in many years before to the Crown.

The Epistle Dedicatory.

But, Sir, you have not only done this, but also retain'd us in an inviolated obedience to his Majesty, that we were the last of his Subjects that necessity enforc'd from our duty, which was an Act of approved Loyalty, as the other was of gallant Bravery.

Sir, though the remoteness of this place, hath veild the glory of these, and other your Honourable Actions; yet I, and all that here with me were witnesses of them, must, and ever will, acknowledg that to you, next to his Majesties goodness, we owe both the Laws we Govern by, and the Countrey it self now Govern'd by those Laws: which truth, as a Publique Person, I must ever justifie; and, as a Particular one, confess my self by it oblig'd to be

Most Honoured Sir,

Your most humble

And

Faithful Servant,

Francis Moryson.

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THE
L A W E S
OF
VIRGINIA.

*At a Grand Assembly held at James-City,
the 23^d. of March, 1662.*

P R E A M B L E.



HEREAS the late unhappy Distractions caused frequent Change in the Government of this Countrey, and those produced so many Alterations in the Laws, that the People knew not well what to obey, nor the Judges what to punish; by which means, Injustice was hardly to be avoided, and the just freedom of the people, by the uncertainty and licentiousness of the Laws, hard'y to be preserved: This Assembly taking the same into their serious Considerations, and gravely weighing the Obligations they are to discharge to God, the King, and the Countrey; have, by settling the Laws, diligently endeavoured to prevent the like inconveniences, by causing the whole body of the Laws to be Reviewed; all unnecessary Acts, and chiefly such as might keep in memory our forced Deviation from his Majesties Obedience, to be Repealed and Expunged; and those that are in force to be brought into one Volume: and, lest any prejudice might arise by the ignorance of the times from whence those Acts were in force, they have added the Dates of every Act, to the end that Courts might rightly administer Justice, and give sentence according to Law, for any thing

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thing hapning at any time since any Law was in force; and have also endeavoured in all things, as near as the capacity and constitution of this Countrey would admit, to adhere to those Excellent, and often refined Laws of *England*, to which we profess and acknowledge all Reverence and Obedience; and that the Laws, made by us, are intended by us but as brief Memorials of that, which the capacity of our Courts is utterly unable to Collect out of its vast Volumns, though sometimes perhaps, for the difference of our and their Condition, varying in small things, but far from the presumption of contradicting any thing therein contained. And, because it is impossible to honour the King as we should, unless we serve and fear God as we ought; and that they might shew their equal care, they have set down certain Rules to be observed in the Government of the Church, untill God shall please to turn his Majesties pious thoughts towards us, and provide a better supply of Ministers among us.

Be it therefore Enacted by the Governour, Council, and Burgeses of this Grand Assembly, That all the following Laws, continued or made by this Assembly, shall be hereafter reputed the Laws of this Countrey, by which all Courts of Judicature are to proceed in giving of Sentence, and to which all persons are strictly required to yield all due Obedience; and that all other Acts, not in this Collection mentioned, be to all intents and purposes utterly Abrogated and Repealed, unless Suit be Commenced for any thing done in the time when a Law, now repealed, was in force; in which case, the producing that Law shall excuse any person for doing any thing according to the Tenor thereof.

I.

Church to be built, or Chappel of Ease.

BE it Enacted, for the advancement of Gods Glory, and the more decent Celebration of his Divine Ordinances, There be a Church decently built, in each Parish of the Countrey, unless any Parish as now settled, by reason of the fewness or poverty of the Inhabitants, be incapable of sustaining so great a Charge: In which case, It is Enacted, That such Parishes shall be joyned to the next great Parish of the same County, and that a Chappel of Ease be built in such places, at the particular Charge of that place.

II. Festries

II.

Vestries appointed.

THat for the making and proportioning the Levies and Assessments for building and repairing the Churches and Chappels, provision for the Poor, maintenance of the Minister, and such other necessary uses, and for the more orderly managing all Parochial affairs : Be it Enacted, That Twelve of the most able men of each Parish, be by the major part of the said Parish, chosen to be a Vestry ; out of which number, the Minister and Vestry to make choyce of two Church-wardens yearly, as at, so in case of, the death of any Vestry-man, or his departure out of the Parish, that the said Minister and Vestry, make choyce of another to supply his room. And be it further Enacted, That none shall be admitted to be of the Vestry, that doth not take the Oaths of Allegiance and Supremacy to his Majesty, and subscribe to be conformable to the Doctrine and Discipline of the Church of *England*.

III.

Glebes to be laid out.

THat for the better encouragement and accommodation of the Ministry, there be Glebes laid out in every Parish, and a convenient House built for the Reception and abode of the Minister according to his Majestie's Instructions, and that such Provision be made for his maintenance in the valuable and currant Commodities of the Countrey, as may be really worth fourscore pounds *per annum*, besides his Perquisites and the Glebe (*viz.*) if in Tobacco at the rate of twelve shillings the hundred, in Corn at ten shillings the Barrel ; if in Money, by Bills of Exchange, security to be given for the certain payment ; and in case of Protest to be recovered here with Fifty *per cent.* for damages.

IV.

Ministers to be Inducted. 1642.

THat for the preservation of Purity and Unity of Doctrine and Discipline in the Church, and the right Administration of the Sacraments, no Minister be admitted to officiate in this Countrey, but
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such as shall produce to the Governour a Testimonial, that he hath received his Ordination from some Bishop in *England*, and shall then subscribe to be conformable to the Orders and Constitutions of the Church of *England*, and the Laws there established; upon which the Governour is hereby requested to induct the said Minister into any Parish that shall make presentation of him. And, if any other person pretending himself a Minister, shall, contrary to this Act, presume to Teach or Preach, publicquely or privately, the Governor and Council are hereby desired and impowred to suspend and silence the person so offending, and upon his obstinate peristence, to compel him to depart the Countrey, with the first convenience, as it hath been formerly provided by the 77th Act made at *James-City*, the second of *March*, 1642.

V.

Ministers to provide Readers, 1661.

THat every Parish not having a Minister to officiate every Sunday, do make choice of a grave and sober person of good life and conversation, to read Divine Service every intervening Sunday at the Parish-Church, when the Minister preacheth at any other place.

VI

Liturgie to be read.

THat the Canons set down in the Liturgie of the Church of *England*, for celebrating Divine Service, and Administration of the Sacraments, be duly observed and kept; and that the whole Liturgie, according to the said Injunctions, be by the Minister or Reader, at Church and Chappell every Sunday, thoroughly read.

VII.

Church-Catechism.

THat neither Minister nor Reader teach any other Catechism then that by the Canons appointed and inserted in the Book of Common-Prayer; and that the Minister Expound no other then that, that our Fundamentals, at least, may be well laid; and that no Reader upon presumption of his own abilities do attempt

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tempt the Expounding that or any other Catechism, or the Scriptures.

VIII.

Ministers to Preach Weekly.

THat the Minister of every Parish preach constantly every Sunday, (*viz.*) one Sunday in a Moneth at each Chappel of Ease in his Parish, if there be any, and the other in his Parish Church; and that twice a year, at least, he administer the Sacrament of the Lords Supper there.

IX.

Sundays not be Prophaned.

THat the Lords day be kept Holy, and that no Journeys be made on that day, except in case of emergent necessity, and that no other thing be used or done, that may tend to the prophanation of that Day; but that all and every person and persons inhabiting in this Country, having no lawful excuse to be absent, shall upon every Sunday, and the four Holy-dayes hereafter mentioned, diligently resort to their Parish Church or Chappel accustomed, then and there to abide orderly and soberly during the time of Common-Prayers, Preaching, or other Service of God; upon penalty of being fined Fifty pounds of Tobacco by the *County-Court*, upon presentment made by the Church-wardens, who are to collect the same with the Parish-levies. Provided alwayes, That this Act conclude not Quakers, or other Recusants, who out of Non-conformity to the Church, totally absent themselves, but that they shall be lyable to such fines and punishments as by the Statute of 23. of *Eliz.* are imposed on them, being for every Moneth's absence, Twenty pounds Sterling; and if they forbear a Twelve-Moneth, then to give good security for their behaviour, besides their payment for their Monthly absence, according to the tenor of the said Statute; and, that all Quakers for Assembling in unlawful Assemblies and Conventicles, be fined, and pay each of them, there taken, two hundred Pounds of Tobacco for each time they shall be, for such unlawful meetings, presented by the Church-wardens to the *County-Courts*.

X.

January the 30th to be kept a Fast.

WHereas our late Surrender and Submission to to that Execrable Power that so bloodily Massacred the late King *Charles* the First, of ever-blessed Memory, hath made us by acknowledging them guilty of their Crimes, to shew our serious and hearty Repentance and Detestation of that barbarous Act: Be it Enacted, That the Thirtieth of *January*, the day the said King was Beheaded, be annually solemnized with Fasting and Prayers, that our Sorrows may expiate our Crime, and our Tears wash away our Guilt.

XI.

May 29th to be kept Holy.

Since God of his mercy hath been pleased to Restore our late Distracted Kingdoms to Peace and Unity, and his late distressed Majesty to the Throne of his Royal Ancestors: Be it Enacted, That in testimony of our Thankfulness and Joy, the Twenty-ninth of *May*, the day of his Majestie's Birth and happy Restitution, be annually Celebrated as an Holy-day.

XII.

None to be Married but by Ministers, nor by them but by Licence or Publishing the Banes.

THat no Marriage be Solemnized, or reputed valid in Law, but such as is made by the Minister, according to the Laws of *England*; and that no Minister Marry any persons without Licence from the Governour or his Deputy, or Thrice publication of Banes, according to the prescription of the Rubrick in the Common-prayer-Book, which enjoynes, that if the Persons to be Married, dwell in several Parishes, the Banes must be asked in both Parishes; and that the Curate of the one Parish shall not Solemnize the Matrimony, until he have a Certificate from the Curate of the other Parish, that the Banes have been there Thrice published, and no Objection made against the parties joyning together: And if any Minister shall, contrary to this Act, Marry any Persons, he shall be
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fin'd Ten thousand pounds of Tobacco: And any pretended Marriage, made by any other then a Minister, be reputed Null; And the Children born out of such Marriage of the Parents, esteemed Illegitimate; and the Parents suffer such Punishment, as by the Law prohibiting Fornication, ought to be inflicted.

XIII.

Church-wardens to make Presentment.

THat the Church-wardens shall twice every year (*viz.*) in *December-Court*, and *April-Court*, deliver a true Presentment, in writing, of such Misdemeanors, as by their knowledge, or by common fame, have been committed whilst they have been Church-wardens; Namely, Swearing, Prophaneing Gods holy Name, or Sabbath; abusing, or contemning his holy Word and Sacraments, or absenting themselves from the exercise thereof; as also of those foul and abominable sins of Drunkenness, Fornication, and Adultery; and of all malicious and envious Slandering and Backbiting. For the better manifestation whereof, the said Church-wardens are Impowred, to cause all such persons, upon whose Reports they ground their Presentments, to appear at the respective County-Courts to which the Presentments are made, to give in their Evidences concerning the same.

XIV.

Burial of Servants, or others, privately; Prohibited.

WHereas the private Burial of Servants, and others, give occasion of much Scandal against divers persons, and sometimes not undeservedly of being guilty of their Deaths; from which, if the persons suspected be innocent, there can be no Vindication; nor if guilty, no punishment, by reason they are, for the most part, Buried without the knowledge or view of any others then such of the Family, as by nearness of relation, as being Husband, Wife, or Child are unwilling, or as Servants are fearful, to make discovery; if Murther were committed; for Remedy whereof, as also for taking away that Barbarous Custom, of exposing the Corps of the Dead (by making their Graves in common and unfenced places) to the prey of Hogs, and other Vermine: Be it Enacted, That there be in every Parish, three, or four, or more, places appointed, according to the greatness or littleness of the same, to be set a-part and fenced in, for places of publique Burial, for that Precinct;

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and further, that before the Corps be Buried, there be, at least, three or four of the Neighbours called: who may, in case of suspicion, view the Corps; and, if none, yet, according to the decent Custom of all *Christendom*, they may accompany it to the grave. And be it further Enacted, That no persons, whether free or servants, shall be buried in any other place then those so appointed; unless such, who by their own appointment in their life-time, have signified their desire of being interred in any particular place elsewhere.

X V.

Church-wardens to keep the Church in Repair, and provide Ornaments.

AND it is further Enacted, That the said Church-wardens take care, and be impowred, during their Church-wardenships, to keep the Church in repair, provide Books and decent Ornaments, (*viz.*) a great Bible, two Common-Prayer-Books, a Communion-Cloth and Napkins, a Pulpit and Cushion this present year; and after annually something towards Communion-Plate, Pulpit-Cloth, and Bell, as the ability of the Parish will permit: And that they the said Church-wardens, do faithfully collect the Ministers dues, cause them to be brought to convenient places, and honestly pay them; and that of all their Disbursements, and Receipts, they give a true accompt to the Vestry, when by them required, who are impowred, by a former Branch of this Act, to levy the same upon the Parish; and by this, to give the said Church-wardens a sufficient discharge.

X VI.

Registers to be kept by the Ministers or Readers.

WHEREAS many differences do frequently arise about the age of Orphants, and enquiries are often made for persons Imported into this Countrey, and here deceased, and no positive Certificates can be granted of the Age of one, or Death of the other, by reason no Registers have been kept, which might, by the Record there entred, evidence the same: Be it therefore Enacted, That the Minister or Reader of every Parish, shall well, truly, and plainly, Record all Births, Burials, or Marriages, that shall happen within the Precincts of that Parish, in a Book to be provided by the Vestry for that purpose. And, if any Master of a Family, or other person concerned, shall omit the giving notice to the said Minister or Reader,

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of the day of the Birth, Death, or Marriage, of any to him or them related, the space of a Moneth, such person for such his neglect, be fined One hundred pounds of Tobacco: And that the Minister have for their entry of such Birth, Death, or Marriage, Three pounds of Tobacco; and if they neglect entering the same, as aforesaid, that they be fined, upon discovery made of the said neglect, five hundred pounds of Tobacco to the use of the Parish.

XVII.

Licences for Marriage how to issue.

AND whereas many times Licences are granted, and the persons are Married out of the Parishes, which Licences have been usually granted by the Governour, whose knowledg of persons cannot possibly extend over the whole Country: Be it Enacted, That henceforward, all persons desiring Licences for Marriage, shall first repair to the Clerk of the County-Court, and there give Bond, with good Security, that there is no lawful cause to obstruct their said Marriage; and that upon receipt of such Bond, the said Clerk shall write the Licence, and certifie to the first in Commission for that County, or such other whom it shall please the Governour to Depute, that he hath taken a Bond, as aforesaid; who, by vertue thereof, shall signe the said Licence, and direct the same to the Minister. And to the end that the legal Grant of the said Licence may be made Evident, and the Governour ascertained of his just dues: It is further Enacted, That the said Clerk shall yearly, in *September*-Court, return the Names of the parties Married, and of the Security, to the Secretaries Office, there to be Recorded; and further, that he deliver an accompt of the Fees due for the said Licences, to the Sheriff or Collector of the County, who is hereby required to Collect the same with the Levies, and to make payment thereof to the Governour, and others, to whom they are due: And any Clerk making default in any of the premises, to forfeit One thousand pounds of Tobacco, to the use of the Governour. The Fees for the Licences, to be as followeth (*viz.*) to the Governour, Two hundred pounds of Tobacco, or Twenty shillings sterling; to the Clerk for writing the Bond, Licence, Certificate, and returning the same to the Office, Fifty pounds of Tobacco; and to the Secretary for Recording the same in the Office, as aforesaid, Forty pounds of Tobacco; and the Minister Marrying with a Licence, Two hundred pounds of Tobacco, or Twenty shillings sterling; if by Banes, Fifty pounds of Tobacco, or five shillings.

XVIII.

Provision for a Colledge.

WHereas the want of able and faithful Ministers in this Countrey, deprives us of those great blessings and mercies, that alwayes attend upon the Service of God, which want by reason of our great distance from our Native Countrey, cannot in probability be alwayes supplied from hence : Be it enacted, That for the advance of Learning, Education of Youth, Supply of the Ministry, and Promotion of Piety, there be Land taken up or purchased for a Colledge and Free School, and that there be with as much speed as may be convenient housing Erected thereon for entertainment of Students and Scholars.

Whereas an Antient practice of this Countrey, hath, contrary to Law and Reason, ignorantly vested the Lands of persons intestate in the hands of Administrators, of whom divers persons have purchased, and hold their Lands by no other Titles, then such sales which can be of no validity against the claim of the King, whom no time can prescribe, and to whom, if an Heir appear not, the Land must of necessity devolve. And if the King should at any time, give express Order to an Escheator to make inquiry into the Titles we hold by; the said Escheator cannot, by vertue of his Office, but find all such Lands for the King, which we *Francis Morison*, and *Thomas Ludwell*, who are, at present, intrusted by his Majesties Treasurer to make composition for all Lands so Escheated to his Majesty, taking into our serious consideration, and out of our tender care of many poor men, who by the loss of Lands, thus perhaps dearly purchased, and honestly payd for; and out of our sense of the many inconveniences, and great damages would fall upon them by being ousted out of their Possessions by the severity of a too rigorous Escheator; and that, on the other side, we might not seem to debarr his Majesty of his just Rights: we have thought it convenient to propose a certain Rule for Compositions for all Lands held by any pretended Right two years, by which, while the power is in our hands, we shall proceed: and if the Assembly think it a favour, we shall joyn with them, making it our request to Major *Norwood*, his Majesties Treasurer, to get his Majesty to confine them, that no succeeding Escheator may at his pleasure rigorously exceed these our moderate and reasonable Demands.

1. We concede, that any person, having been two years in possession of any Land that ought to have been vested in his Majesty by Escheat, shall pay for his Composition but one Hundred Pounds
of

of Tobacco for every fifty acres, besides the Fees for finding the Office, and drawing the Conveyance.

2. That every person having been so in possession two years as aforesaid, shall have Eight Months time to petition for, and make their Composition; but if they defer it longer, and another sue for it, and obtain it, they can impute the blame to nothing but their own neglect.

3. That where there is a Widdow, she shall enjoy the Land of her Husband during her life, and be admitted, in the first place, to make her Composition for the Fee-simple, in case she signifie her desire within the time aforesaid.

That all Lands escheated before the two years aforesaid, the person concerned shall pay for his Composition as aforesaid; but all Lands, which shall hereafter lapse, or which have lapsed within the two years last past, the Composition to be made for, with those by his Majesties Treasurer appointed and authorized thereunto; and that the Widdow be admitted in the first place, she making her claim within Eight Months according to the Proposition aforesaid.

XIX.

Courts.

Whereas the name of Quarter-Courts is altogether unsuitable to the nature of those Courts held by the Governour and Council, both in respect there are but three of those Courts in the year, as also, because they are not equally distributed in the Quarters of the Year; *September* and *November* being too neer, and *March* too long from them, to admit of that Title. Be it therefore enacted, That the said Courts be no longer stiled Quarter-Courts, but that they be henceforth called General-Courts; a name more suitable to the nature of them, as being places where all persons and causes have generally audience, and receive determination.

Whereas the Acts of Assembly already made, are very defective in prescribing the Rules to be observed in the proceedings both in those General, and the particular County-Courts, for want whereof, many errors are committed; the respects due to the Courts so nearly representing His Majesties sacred Person, by the clamorous unmannerliness of the people, lost: and the Order, Gravity, and Decorum, which should manifest the authority of a Court, in the Court it self neglected: And in regard the long omission of those hugely material, though, in themselves little things of form, hath caused all things still to continue in the first disorders; It hath appeared necessary to this present Grand Assembly, to set down the Rules and Forms themselves for the beginning, continuance, and proceedings in the said Courts, as followeth.

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loweth. And it is therefore enacted, That the *General-Courts* begin and continue, as followeth (*viz.*)

General Courts to begin and continue.

That *March-Court* begin the Twentieth of *March*, if it be not Saturday or Sunday; and then the Munday following; and hold eighteen dayes, not accounting Sundays in the number.

That *September-Court* begin the Twentieth of *September*, if it be not Saturday or Sunday, and then to begin the Munday following; and hold Twelve dayes, not accounting Sundayes in the number.

That *November-Court* begin the Twentieth of *November*, if it be not Saturday or Sunday; and then to begin the Munday after; and hold twelve dayes, not accounting Sundayes in the number.

That Adjournments of the said Courts, be alwayes avoided, and that they begin precisely upon the day, that all persons knowing the day of the return of the Writs, may accordingly give their attendance.

Stile how entred.

That the Stile of the Court be entred thus.

At a General Court held at *James-City*, the twentieth of by
His Majesties Governour and Council, in the year of the Raigh
of our Sovereign Lord *Charles* the Second, by the Grace of God,
of Great Britain, France, and Ireland, King; Defender of the Faith,
&c. and in the year of our Lord God present.

Insert the name of the Governour and Council.

Silence commanded.

Then let the Cryer or under-Sheriff make Proclamation, and say,

O Yes, O Yes, O Yes: silence is commanded in the Court, while
His Majesties Governour and Council are sitting, upon pain of Imprisonment.

Suitors to appear.

After Silence commanded, let the Cryer make Proclamation saying.

All manner of persons that have any thing to do at this Court, draw neer, and give your attendance; and if any one have any plaint to enter, or suit to prosecute, let them come forth, and they shall be heard.

When silence is thus commanded, and Proclamation made upon calling the Docket, the Cryer shall call for the Plaintiff.

Calling the Plaintiff.

A. B. Come forth, and prosecute thy Action against *C. D.* or else thou wilt be nonsuite; and the Plaintiff putting in his Declaration, the Cryer shall call for the Defendant.

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Calling for the Defendants.

C. D. come forth and save thee and thy Bail, or else thou wilt forfeit thy Recognizance.

For proceedings in the said Courts.

Warrants to be issued by the Clerks.

XX.

Actions to be Proportioned.

BE it Enacted, That Warrants be issued by the Clerks of the General Courts, and the said Clerk so proportion the number of his Actions, that there be for each day Twenty, and that, until there be Twenty Actions entered for the first day, no Warrant issue for the second; and then Twenty for the second, before any issue for the third; and so proportionably Twenty *per* day, for so many days as there are Actions to fill with that number. It being unreasonable, That the Governour and Council should wait a week for a stragling business entered at a particular mans pleasure. And in case any special Warrant issue, that for the extraordinariness of the business may require the Governours own signing. It is enacted, That the person first go to the Clerk, and there enter his Action, and the day of the Return before his Warrant shall be signed.

And whereas some scruples have arisen about the time Warrants may be served (*viz.*) Whether ten days before the return, that is the day mentioned in the Writ to appear: It is hereby declared, that Warrants may be served at any time, if there be ten days between the Serving and the Return as aforesaid. And further, that it may be done in Court-time for the same Court, if there be ten days between the Serving.

Warrants may be served to the General Court at any times, if there be ten days between the Arrest and Return.

XXI.

*Courts to sit from Eight to Eleven of the Clock in the Forenoon:
from one to three, after Noon.*

BE it also further Enacted, That the Court shall each day sit from Eight of the clock till Eleven in the fore-noon, and from One to Three in the afternoons: And for avoiding all Errors that may happen in the draught for the Orders by the Clerk, either through his mis-apprehending the sense of the Court, or the partial Information of any person concerned, which he, being distracted with the multiplicity of business, may unwittingly assent to, that all Orders of the day be by the Clerk drawn up against next morning, and then read

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in open Court (in presence of the Plaintiffe and Defendant , if they will be present) when Rule will be given by the Court for amendment of Errors, if any be before they be entred upon Record ; and the Plaintiffe or Defendant, if they have any new matter of plea, shall then have liberty to plead it in **Arrest of Judgement**. And the Orders thus publicly read and confirmed shall be signed by the Secretary which shall remain upon File in the Office for the full Justification of the Clerk, who is to enter them in the Book of Records.

XXII.

The Plaintiffe to file his Declaration three days before the day of Hearing.

ANd whereas the Clerk is enjoyned to enter Twenty Actions for each day, and the Court to sit at certain hours ; so also , It is hereby Enacted, That the Plaintiffe file his Declaration in the Office at least three days before the day of Hearing : in which time, the Defendant may take a Copy there of , the Original still remaining in the Office, and provide his Answer in writing, ready to present to the Governour and Council at the day of hearing : and further, that if the Plaintiffe fail either in not appearing to prosecute, or in neglecting to file his Declaration, as is hereby enjoyned, he shall pay to the Defendant, if he liveth within fifty miles of *James-City*, one hundred and fifty pounds of Tobacco for a Non-suit ; and if he dwell further off, then three hundred & fifty pounds of Tobacco ; beside his Amercement to the Publique. And if the Defendant make default, the Judgment to pass against the Bail for the thing sued for ; or, if no Bail be returned, then against the Sheriff, besides his Amerciament of one thousand pounds of Tobacco laid upon him by Act, for not making Returns. Provided, that the Bail and Sheriffe have respite of Execution until the next Court, when, if they bring in the person of the party the Judgment of the first Court granted to be reversed ; but the Amerciament awarded against the Sheriff to continue, and not to be remitted.

XXIII.

Adjournment to the two last days for Determination of References by Avisare Volumus, or Actions erected in Court-time.

ANd whereas this Act enjoyns the proportioning so many Actions to a day, but gives liberty to arrest in Court-time to the last

last dayes of the Court. And whereas some cases of difficulty may be presented, upon which the Court may desire to advise: Be it therefore Enacted, that assoon as the Court hath sat so many dayes as are filled with Actions, it shall be adjourned to the two last dayes of that Court; and what-ever the Court hath referred by their *Avisare Volumus*, and all Actions entered in Court-time, as aforesaid, shall be then tryed and determined.

XXIV.

Criminal Causes to be tryed at the General Courts.

WHEREAS men of the greatest abilities both for Judgement and Integrity do usually meet at the *General-Courts*, whither their occasions do frequently call them, and because any thing that concerneth life or limb, requires the ablest Juries to enquire of it: Be it enacted, That all criminal causes, that concern either life or member, shall be tryed at the General Courts, only the fourth day of the said Courts; and because the Laws of *England* do enjoyn Juries to be chosen out of the Neighbourhood where the fact was committed, according to which the remoteness of our habitations, doth not admit us so fully to practise, as we desire; yet that we may come to them as near as possibly we may; and because it is very requisite that part of the Jury, at least, should come from thence, who by reason of their nearer acquaintance with the business, may give Information of divers circumstances to the rest of the Jury. Be it therefore Enacted, That immediately after the commitment of any person found criminal by the grand Inquest, the Sheriffe of the County to whose custody he is committed, shall give notice thereof to the Secretaries Office at *James-City*, and the Clerk of that Office shall presently send a *Venire facias* to the said Sheriff to Impannel six men of the ablest and neereſt of the Inhabitants of his County to that place where the fact was committed to be of the Jury for Tryal of that cause returnable the said fourth day of the next General-Court, where the said Jury-men are bound to appear; and for their charges, the Countrey shall allow to each man Twenty pounds of Tobacco *per* day, for each day they may be reasonably coming to, and returning from, *James-City*; and Fifty pounds of Tobacco *per* day during their attendance there about it, (*viz.*) from the day they are by the Writ to appear, until they be discharged, and that the rest of the *Fury* be made up of the By-standers.

XXV.

The Governour and two of the Council to go the Circuit.

WHereas the Honourable Governour, out of his singular care of his due Administration of Justice in all Courts, and that he might be the better enabled to render his Majesty an exact Account of the Government, hath been pleased to take upon him and the Council the pains of visiting all the *County-Courts* of the Countrey: Be it therefore Enacted, That the Honourable Governour, and one of the Council, or, upon the urgent affairs of the Countrey hindring the Governour, that the Governour Commissionate two of the Council for every River, yearly in *August* to sit Judges in all the *County-Courts*, and there hear and determine all causes then depending in them by Action or reference from any other preceding Court in that County. Provided no Councillor be appointed to go the circuit in the River wherein he doth inhabit.

XXVI.

Appeals how to be made.

WHereas many Appeals are made from *County-Courts* to *General-Courts*, and from *General-Courts* to *Assemblies*, whereby the speedy Execution of Justice is often retarded; and many persons, disabled by the charge of going to *James-City* to prosecute, are forced many times to desist from the claim of their Just Rights: Be it therefore Enacted, that, for the avoiding delays, and for the ease of the Inhabitants, all Appeals made in any Court after the *General-Court* in *March*, be referred to the hearing of the Governour or Itinerary-Councillours in their Circuit; From whose sentence, it there, if any person will appeal. If the Governour be present, shall be made to the next Assembly: if two of the Council, then to the next *General-Court*, from which the said Councillors, during the Tryal of such cause or causes in which they had at the *County-Courts* given their opinions shall be suspended. But because in the Winter time the *General-Courts* are more frequent, and all Causes there receive a speedier determination; and, because Tobacco being only then payable, may be paid in kind: It is Enacted, That all appeals made from *October*, *December*, and other Intervening *County-Courts* be made to the next succeeding *General-Court*, and from thence to the *Assembly*. And because there may be as great Errors of Judgement or Will, in matters of small value as in the greatest; It is further Enacted,

Enacted, That Appeals shall lie open, as aforesaid, for any thing of what value soever; alwayes Provided, that the Appellant put in good Security for prosecuting the Appeal, and payment of Fifty *per cent.* Damages to the Defendant, if the Appellant be cast in the Suit, for his unjust molestation. Provided also, that no Appeals be made from *Northampton-County*, whose remoteness and dangerousness of Passage is such, as is not, for inconsiderable causes, to be attempted, under the value limited by former Acts of Assembly, being Three thousand pounds of Tobacco, or Thirty pounds sterling; any thing in this Act to the contrary notwithstanding. And be it further Enacted, That all causes of what value or nature soever, not touching life or member, may be tryed at the *County-Courts*, and that no Arrest be made to the *General-Court*, in any Action under the value of Sixteen hundred pounds of Tobacco, or Sixteen pounds sterling; upon penalty of Five hundred pounds of Tobacco, to be paid by the Plaintiff to the Defendant, for his Charges.

XXVII.

Amerciaments in the General-Courts Fifty pounds of Tobacco per Cause; in County-Courts, Thirty per Cause.

WHereas many Suits are raised upon frivolous occasions, by litigious persons; for prevention thereof, for the future, Be it Enacted and confirmed, That all persons whatsoever, that are cast in any Cause, be they Plaintiffs or Defendants, shall be Amerced (besides the Damages and Costs to the Recoverers) Fifty pounds of Tobacco, in the *General-Courts*, to the use of the Publique; and in the *County-Courts*, Thirty pounds of Tobacco, for the maintenance of the Commissioners. For the due Collecting whereof, Be it Enacted, That the Clerks of the *General-Courts*, and the several *County-Courts*, keep an exact Accompt of the Amerciaments, and deliver or send the same to the several Sheriffs of the particular Counties; who are hereby required to Collect the same, with the Levies; and are accordingly impowred, for default of payment, to make distresses, and commanded not to return any Arrears; (Executors and Administrators, who cannot pay without orders, alwayes excepted.)

XXVIII.

Subpœna's to be Issued by the Clerk.

BE it also Enacted, That the Clerk of the *General-Court* shall issue *Subpœna's* from the Secretaries Office, for all Evidences required in the tryal of any Cause there depending, if the Witnesses required do not dwell beyond the Bay, or the North-side of *James-River*: And if they do, that then a *Dedimus Potestatem* shall issue for taking the Deposition in the County, or Counties, where the Witnesses do dwell. Provided alwayes, That in *Criminal-Causes* all Witnesses be bound over to give in their Evidences *vivâ voce*, at the tryal in the *General-Court*.

XXIX.

Dedimus Potestatem how to issue.

WHereas many Causes between parties and parties, are lost for want of Evidence: who living so far remote cannot, but at a charge and expence farr exceeding the value of the Cause, be brought to give it *vivâ voce*, at the *General-Court*, or at the *County-Courts*, if the party dwell out of the County, or else a greater mischief is introduced, by the partial and illegal Examination of Witnesses in presence of but one party before some one Commissioner, perhaps too favourably inclined to the party in whose behalf the Depositions are taken, besides the trouble, expence, and hinderance of the Witnesses themselves, who, many times, are forced One hundred Miles from the place of their Residence, for a small allowance, to give Evidence in tryals of petty and inconsiderable values: For remedy whereof, and that all parties may with more convenience, less trouble and cost, have their Evidences impartially and legally taken; Be it Enacted and confirmed, That if the Cause be to be Tried at the *General-Court*, the Governour; if in any *County-Court*, any one of the Council, or the Judge of the Court, shall grant and sign a Writ of *Dedimus Potestatem*, for Examination of Witnesses, in the Counties where they dwell, directed to three such persons as the Plaintiff and Defendant; if they both desire, the Writ shall, by consent, make choice of and nominate. But if it be the single request of either Plaintiff or Defendant, then the Governour, Councillour, or Judge of the *County-Court*, out of Court-time, shall nominate and appoint three or more such indifferent persons to examine all such Witnesses, as by the party desiring the Writ they shall be moved to summon before

before them. And to this end the Commissioners, thus made choice of, or appointed to execute the Writ, or any two of them, shall by the said Writ, be impowred and required to appoint a time and place, when and where they will receive the Evidences, and to issue out *Subpæna's* for their appearances accordingly; and if upon such Summons any of the Witnesses refuse or neglect to come and give in their Evidences, then the Commissioners, or any two of them, be further impowred, by this Act, to lay such a fine upon them as the Act of Assembly gives in such cases, for non-appearance of Witnesses, at the *General* or *County-Courts*. Provided alwayes, That the parties procuring the Writ, shall give the party concerned against him, notice of the time and place, when and where the Commissioners intend to sit, at least ten dayes before the day appointed by the said Commissioners, for putting it into Execution. And, Be it further Enacted, That the said Commissioners, or any two of them, which take the said Examinations, shall immediately subscribe them, seal them and the Writ up, and return them with the Writ so sealed up, to the Clerk of the *General-Court*, if the Writ issue from the Governour, or else to the Clerk of the *County-Court*, whence the Warrant issued by either of the said Clerks, to be Read at the time of the Tryals of the Cause in either of the said Courts.

XXX.

Penalties for non-appearance of Evidence.

BE it also Enacted, That the Penalties to be inserted in *Subpæna's* to the *General-Courts* for Non-appearance of the Evidences summoned, be, One thousand pounds of Tobacco; and for like default of the *County-Courts*, Three hundred and fifty pounds of Tobacco: And that all Witnesses, summoned to give in their Evidences at either of the said Courts, shall be allowed for their necessary time spent in coming and going to, and from, the said Courts, Twenty pounds of Tobacco *per* day; and for the time they attend there, untill they have given in their Evidences, Forty pounds of Tobacco *per* day: And because many maliciously, to aggravate the charge of the Suit, summon many more Witnesses then are needful; Be it therefore further Enacted, That there shall not be allowed in any Bill of Costs, the charge of above Three Witnesses to any one Action, unless for proof of several Matters incident thereunto, which severally may require the Attestation of Two Witnesses.

XXXI.

County-Courts appointed.

BE it also Enacted, for the more due Administration of Justice in the severall Counties, and the greater ease of the people, in obtaining the same, The Courts be continued in each County, as of long time hath been accustomed: And that the said Courts do consist of Eight of the most able, honest, and judicious persons in the County; which Eight, or any four of them, whereof one to be alwayes of the *Quorum*, are to be impowred by Commission from the Governour for the time being, to act according to the Laws of *England*, and of this Countrey; and to impower them severally, and out of Court, to act and do all such things as by the Laws of *England* are to be done by Justices of Peace there. And be it further Enacted, That these persons, thus Commissionated, take the Oaths of Allegiance and Supremacy, and the Oath of a Justice of Peace; That they be called Justices of Peace: That the Courts be styled *County-Courts*. And further, that the Justices do keep the said Courts precisely upon the dayes appointed by this and former Acts of Assembly (*viz.*)

Henrico the 1 day.
Charles-City the 3 day.
James-City the 6 day.
Isle of Wight the 9 day.
Nanzemond the 12 day.
Lower-Norfolk the 15 day.
Elizabeth-City the 18 day.
Warwick-County the 21 day.
Torke-County the 24 day.

Northampton the 28 day.
New-Kent the 28 day.
Gloucester the 16 day.
Lancaster the
Rappahanocke the
Surry the
Northumberland the
Westmerland the

And all Adjournments by all means possible be avoided: And that all the Justices of the said Courts, respectively, shall duly attend the same, and shall not depart or absent themselves from thence without the licence and consent of the rest of the Justices there present. And if any of them shall happen to have a lawful cause of absence, it is thought fit, that in such cases they shall, upon the first day of the Court, signify the same to the Court by writing; and that they make good proof of the truth thereof at the next ensuing Court, or else, being Delinquent in the premises, every Justice so offending shall forfeit, for every time of his absence, Three hundred pounds of Tobacco, to be imposed by the Court, and disposed of to the good of the County.

XXXII.

No Arrest without Entry of Action.

BE it also Enacted, that all Actions to the *County-Courts*, and *Subpana's* for Witnesses, or in *Chancery*; be first entred with the Clerk of the County, or his known Deputy, before any Arrest made or Summons served, under penalty of Five hundred pounds of Tobacco, to be levyed upon the Sheriff that shall presume to serve any Process, contrary to the tenor hereof. And be it Enacted, That the Plaintiff in any Action, shall, at least the day before the Court, enter his Bill of Complaint, and leave it in the Clerks hands, that the Defendant, if he will, may have a Copy thereof, and accordingly provide his Answer; but the Original Declaration or Bill to be alwayes filed in the Office.

XXXIII.

The Defendant to put in his Answer.

AND be it further Enacted, that for the better regulating and keeping the Records, and transferring the Presidents to Posterity; as also for prevention of new Suits, upon mistake of the grounds of Orders, That as the Plaintiff both in *General-Courts*, and *County-Courts*, files his Declaration; so the Defendant, in both those Courts, shall also put in his Answer in writing; and that the Judgment, if for the Plaintiff, be endorsed on the Declaration; if for the Defendant, on the Answer. And further, that all Evidences concerning that Cause, be filed together with them, and by the Clerk carefully preserved.

XXXIV.

Form of Entering the Court.

BE it also Enacted, That the form for entering the style of the Court, Proclamation for silence, the Cryers calling the Plaintiff, and the Defendant, to Answer; be observed in the *County-Courts*, as well as in the *General-Courts*, varying only in the Title of the Court and the Assessors.

XXXV.

Court not to take Cognizance of any thing, under Two hundred pounds of Tobacco.

ACTION of De-
famation.

AND be it also Enacted, That the Court shall not take Cognizance of any Cause under the value of Two hundred pounds of Tobacco, or Twenty shillings sterling: which a private Justice may, and is, hereby authorized and impowred to hear and determine. And whereas many vexatious persons do very much trouble the Courts and their Neighbours, for brabling words, sometimes passionately, but not maliciously, spoken: Be it therefore Enacted, That no Action be admitted for Defamation in any Court, where the words are not Actionable. And further, that there be no words Actionable, but such as, if true, might have brought the person to suffer punishment by Law, any other to be cast out of the Court, and the Plaintiff to be non-suited; nor that liberty is hereby given, or intended, to any scurrilous person to abuse others at his pleasure, but that his Majesties Courts be not, for such brawles, forced to wave matters of greater consequence. And because Offences of this nature may be determined by a particular Justice, who is hereby impowred to bind the persons so offending, to the good Behaviour; or, if they find not good Security for the same, to commit them to Prison till they find it.

XXXVI.

Private Courts prohibited.

WHEREAS many things are acted, and Administrations granted, at private Courts, which tend to the apparent damage of divers of the Inhabitants of this Countrey: Be it therefore Enacted, That no Private-Courts be kept, but that all business, tryable or grantable by or at the County-Courts, be tryed and granted in open Court, at the times and places by Law appointed. Provided always, that it shall and may be lawful, for the dispatch of Merchants, and other Sea-affairs, which cannot, without much prejudice and detriment to the said Merchants, or Masters, be deferred till the Courts in course should come; It is Enacted, That it shall be lawful for any Justice of the Quorum, by his Warrant directed to the Sheriff, to call a particular Court, and to summon any person or persons before them.

XXXVII. Tryals

XXXVII.

Tryals by Juryes.

WHereas the Seventieth Act made in 1642. and continued by the Ninety-first Act, 1657. seems to restrain both Plaintiff and Defendant from Trial by Juryes, unless the Plaintiff in his Declaration, or the Defendant upon Entry of his appearance, do desire the same; which restriction is quite contrary to the Law of *England*, by which, the Tryal of all matters of Fact, is as appropriate and inherent in the Jury, as matter of Law is in the Judges: for which cause, and that we may in all our Tryals come as near as may be to the Laws of *England*, by which, we are to be governed as our present capacities will admit: Be it enacted, That, every Morning the Court sits, whether the General or County-Courts, the Sheriff of the County in which it sits, shall impannel a Jury to attend the Court that day, to try such Causes, as the Court shall find proper to be referred to them; and that whenever a Jury is sent out, an Officer sworn to that purpose shall keep them from meat and drink, until they have agreed on their Verdict.

XXXVIII.

Grand-Juryes to present Offenders.

WHereas the several Laws constituted and made for the redress of several Misdemeanors and Offences, either through the remissness of the *County-Courts*, or the Justices that keep the same, or else through the defect of the Laws, in not appointing some peculiar Officers to look narrowly after the Offenders, and to make presentment thereof to the said Justices at their *County-Courts*; by which means, the Laws themselves are slighted and contemned, and become wholly useles and ineffectual: Be it therefore enacted and confirmed, That Juryes of Inquest, be impanell'd and sworn in every County, to enquire of the breach of all Penal Laws in their several Counties; and that they make presentment thereof to the several *County-Courts* twice yearly (*viz.*) in *April-Court*, and *December-Court*, when the Justices are to receive them, and find them according to Law, and to take for evidence the presentment of the Jury, if made upon the certain knowledge of any of them; or otherwise, the Parties that inform the Jury to give their Evidence to the next Justice, in presence of the Party presented; which Deposition being produced by the Jury with their Presentment, shall be

XXVIII.

Subpœna's to be Issued by the Clerk.

BE it also Enacted, That the Clerk of the *General-Court* shall issue *Subpœna's* from the Secretaries Office, for all Evidences required in the tryal of any Cause there depending, if the Witnesses required do not dwell beyond the *Bay*, or the North-side of *James-River*: And if they do, that then a *Dedimus Potestatem* shall issue for taking the Deposition in the County, or Counties, where the Witnesses do dwell: Provided alwayes, That in *Criminal-Causes* all Witnesses be bound over to give in their Evidences *vivâ voce*, at the tryal in the *General-Court*.

XXIX.

Dedimus Potestatem how to issue.

WHereas many Causes between parties and parties, are lost for want of Evidence: who living so far remote cannot, but at a charge and expence far exceeding the value of the Cause, be brought to give it *vivâ voce*, at the *General-Court*, or at the *County-Court*, if the party dwell out of the County, or else a greater mischief is introduced, by the partial and illegal Examination of Witnesses in presence of but one party before some one Commissioner, perhaps too favourably inclined to the party in whose behalf the Depositions are taken, besides the trouble, expence, and hinderance of the Witnesses themselves, who, many times, are forced One hundred Miles from the place of their Residence, for a small allowance, to give Evidence in tryals of petty and inconsiderable values: For remedy whereof, and that all parties may with more convenience, less trouble and cost, have their Evidences impartially and legally taken; Be it Enacted and confirmed, That if the Cause be to be Tryed at the *General-Court*, the Governour; if in any *County-Court*, any one of the Council, or the Judge of the Court, shall grant and sign a Writ of *Dedimus Potestatem*, for Examination of Witnesses, in the Counties where they dwell, directed to three such persons as the Plaintiff and Defendant; if they both desire, the Writ shall, by consent, make choice of and nominate. But if it be the single request of either Plaintiff or Defendant, then the Governour, Councillour, or Judge of the *County-Court*, out of Court-time, shall nominate and appoint three or more such indifferent persons to examine all such Witnesses, as by the party desiring the Writ they shall be moved to summon before

before them. And to this end the Commissioners, thus made choice of, or appointed to execute the Writ, or any two of them, shall by the said Writ, be impowred and required to appoint a time and place, when and where they will receive the Evidences, and to issue out *Subpœna's* for their appearances accordingly; And if upon such Summons any of the Witnesses refuse or neglect to come and give in their Evidences, then the Commissioners, or any two of them, be further impowred by this Act to lay such a fine upon them as the Act of Assembly gives in such cases, for non-appearance of Witnesses, at the *General* or *County-Courts*, Provided always, That the parties procuring the Writ, shall give the party concerned against him, notice of the time and place, when and where the Commissioners intend to sit, at least ten dayes before the day appointed by the said Commissioners, for putting it into Execution. And, Be it further Enacted, That the said Commissioners, or any two of them, which take the said Examinations, shall immediately subscribe them, seal them and the Writ up, and return them with the Writ so sealed up, to the Clerk of the *General-Court*, if the Writ issue from the Governor, or else to the Clerk of the *County-Court*, whence the Warrant issued by either of the said Clerks, to be Read at the time of the Tryals of the Cause in either of the said Courts.

XXX

Penalties for non-appearance of Evidence.

BE it also Enacted; That the Penalties to be inserted in *Subpœna's* to the *General-Courts* for Non-appearance of the Evidences summoned, be, One thousand pounds of Tobacco; and for like default of the *County-Courts*, Three hundred and fifty pounds of Tobacco: And that all Witnesses, summoned to give in their Evidences at either of the said Courts, shall be allowed for their necessary time spent in coming and going to, and from, the said Courts, Twenty pounds of Tobacco per day; and for the time they attend there, untill they have given in their Evidences, Forty pounds of Tobacco per day: And because many maliciously, to aggravate the charge of the Suit, summon many more Witnesses then are needful, Be it therefore further Enacted, That there shall not be allowed in any Bill of Costs, the charge of above Three Witnesses to any one Action, unless for proof of several Matters incident thereunto, which severally may require the Attestation of Two Witnesses.

XXXI. County

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And to this end the Commissioners shall have full power to appoint and to remove any Justice of the Peace, or any two or more of them, in any County, or in any two or more of the Counties, as they shall think fit, and to give in such manner as they shall think fit, to the Justices of the Peace, or to any two or more of them, such advice and counsel as they shall think fit, and to give in such manner as they shall think fit, to the Justices of the Peace, or to any two or more of them, such advice and counsel as they shall think fit.

County Courts appointed.

BE it also Enacted, for the more due Administration of Justice in the several Counties, and the greater ease of the people, in obtaining the same, The Courts be continued in each County, as of long time hath been accustomed: And that the said Courts do consist of Eight of the most able, honest, and judicious persons in the County; which Eight, or any four of them, whereof one to be always of the *Quorum*, are to be impowered by Commission from the Governour for the time being, to act according to the Laws of England, and of this Country; and to impower them severally, and out of Court, to act and do all such things as by the Laws of England are to be done by Justices of Peace there. And be it further Enacted, That these persons, thus Commissionated, take the Oaths of Allegiance and Supremacy, and the Oath of a Justice of Peace; That they be called Justices of Peace: That the Courts be styled *County Courts*. And further, that the Justices do keep the said Courts precisely upon the dayes appointed by this and former Acts of Assembly (*viz.*)

Henrico the 1 day.	Northampton the 28 day.
Charles-City the 3 day.	New-Kent the 28 day.
James-City the 6 day.	Gloucester the 16 day.
Wm of Wighams the 9 day.	Lincolne the 16 day.
Norfolk the 11 day.	Rappahannock the 16 day.
Lower-Norfolk the 15 day.	Surry the 16 day.
Elizabeth-City the 18 day.	Northumberland the 16 day.
Warwick-County the 21 day.	Westmoreland the 16 day.
York-County the 24 day.	

And all Adjournments by all means possible be avoided: And that all the Justices of the said Courts, respectively, shall duly attend the same, and shall not depart or absent themselves from thence without the licence and consent of the rest of the Justices there present. And if any of them shall happen to have a lawful cause of absence, it is thought fit, that in such cases they shall, upon the first day of the Court, signify the same to the Court by writing; and that they make good proof of the truth thereof at the next ensuing Court, or else, being Delinquent in the premises, every Justice so offending shall forfeit, for every time of his absence, Three hundred pounds of Tobacco, to be imposed by the Court, and disposed of to the good of the County.

XXXII.

No Arrest without Entry of Alias.

BE it also Enacted, that all Actions to the County-Courts, and Subpoenas for Witnesses, or in Chancery, be first entered with the Clerk of the County, or his known Deputy, before any Arrest made or Summons served; under penalty of Five hundred pounds of Tobacco, to be levied upon the Sheriff that shall presume to serve any Process, contrary to the tenor hereof. And he is Enacted, That the Plaintiff in any Action, shall, at least the day before the Court, enter his Bill of Complaint, and leave it in the Clerks hands, that the Defendant, if he will, may have a Copy thereof, and accordingly provide his Answer; but the Original Declaration or Bill to be always filed in the Office.

XXXIII.

The Defendant to put in his Answer.

AND be it further Enacted, that for the better regulating and keeping the Records, and transferring the Presidents to Posterity; as also for prevention of new Suits, upon mistake of the grounds of Orders, That as the Plaintiff both in *General Courts*, and *County Courts*, files his Declaration; so the Defendant, in both those Courts, shall also put in his Answer in writing; and that the Judgment, if for the Plaintiff, be endorsed on the Declaration; if for the Defendant, on the Answer. And further, that all Evidences concerning that Cause, be filed together with them, and by the Clerk carefully preserved.

XXXIV.

Form of Entering the Court.

BE it also Enacted, That the form for entering the style of the Court, Proclamation for silence, the Cryers calling the Plaintiff, and the Defendant, to Answer; be observed in the *County Courts*, as well as in the *General Courts*, varying only in the Title of the Court and the Assessors.

XXXXV.

noit Court not to take Cognizance of any thing, under Two hundred pounds, of Tobacco, or Twenty shillings Sterling, which a private Justice may, and is hereby authorized and impowered to hear and determine. And whereas many venacious persons do very much trouble the Courts and their Neighbours, for troubling words, sometimes maliciously, but not maliciously spoken: It is therefore Enacted, That no Action be admitted for Defamation in any Court, where the words are not Actionable. And further, that there be no words Actionable, but such as, if true, might have brought the person to suffer punishment by Law, any other to be cast out of the Court, and the Plaintiff to be non-suited. And this liberty is hereby given, or intended, to any scurrilous person to abuse others at his pleasure, but that his Majesties Courts be bound, for such lawless, forced to waive matters of greater consequence. And because Offences of this nature may be determined by a particular Justice, who is hereby impowered to bind the persons so offending, to the good Behaviour; or, if they find not good Security for the same, to commit them to Prison till they find it. And it is further Enacted, That as the Plaintiff doth file his Declaration; so the Defendant in his Answer, shall also put in his Answer in writing; and that the Judge move it for the Plaintiff, he shall be bound to do so; and for the Defendants on the Answer. And further, that all Evidence concerning the Cause, and by the Clerk, be taken by the Clerk.

Action of Defamation.

Whereas many things are acted, and Administrations granted, at private Courts, which tend to the apparent damage of divers of the Inhabitants of this Country: Be it therefore Enacted, That no Private Courts be kept, but that all business, tryable or grantable by or at the County Courts, be tryed and granted in open Court, at the times and places by Law appointed. Provided always, that it shall and may be lawful, for the dispatch of Merchants, and other Sea-affairs, which cannot, without much prejudice and detriment to the said Merchants, or Masters, be deferred till the Courts in course should come: It is Enacted, That it shall be lawful for any Justice of the *Quorum*, by his Warrant directed to the Sheriff, to call a particular Court, and to summon any person or persons before them. VXXX

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XXXVII. Tryals

XXXVII.

Tryals by Jury.

WHEREAS the Severaem Act made in 1643. and continued by the Ninety-first Act, 1657. seems to restrain both Plaintiff and Defendant from Trial by Juryes, unless the Plaintiff in his Declaration, or the Defendant upon Entry of his appearance, do desire the same; which restriction is quite contrary to the Law of England, by which the Tryal of all matters of Fact, is appropriate and inherent in the Jury, as matter of Law is in the Judges; for which cause, and that we may in all our Tryals come as near as may be to the Laws of England, by which we are to be governed, as our protestant capacities will admit, Be it enacted, That every Morning the Court sit, whether the General or County Court, the Sheriff of the County in which it sits, shall assign a Jury to attend the Court that day, to try such Causes, as the Court shall find proper to be referred to them; and that whenever a Jury is sent out, an Officer sworn to that purpose shall keep them from meat and drink, until they have agreed on their Verdict.

XXXVIII.

Grand Jurys to present Offenders.

WHEREAS the several Laws continued and made for the redress of several Misdemeanors and Offences, either through the remissness of the County Clerks, or the Justices that keep the Gaols, or else through the defect of the Laws, in not appointing some particular Officers to look narrowly after the Offenders, and to make presentations thereof to the said Justices at their County Courts; by which means, the Laws themselves are slighted and contemned, and become wholly useless and ineffectual. Be it therefore enacted and confirmed, That Justices of the Peace, be appointed and sworn in every County, to enquire of the breach of all Penal Laws in their several Counties; and that they make presentations thereof to the several County Courts twice yearly (viz.) in May Term, and December Term, when the Justices are to receive them, and find them according to Law, and to take for evidence the presentment of the Jury, if made upon the certain knowledge of any of them; or otherwise, the Parties that inform the Jury to give their Evidence to the next Justice, in presence of the Party presented; which Deposition being produced by the Jury with their Presentment, shall be

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sufficient ground for the Court to pass Judgment against the Offenders.

XXX XIX.

Pillories to be erected at each Court.

WHereas many Offences are punishable by the Laws of England, and of this Country, with Corporal Punishments, for executing whereof, no such Provision hath been made, as the said Laws require: Be it therefore enacted, that in every County, the Courts cause to be set up a Pillory, a pair of Stocks, a Whipping-Post near the Court-House, and a Ducking-Stool in such place, as they shall think convenient, that such Offenders as by the Laws are to suffer by any of them, may be punished according to their demerits: and the Court not causing the said Pillory, Whipping-Post, Stocks, and Ducking-Stool, to be erected within six Months after the Date of this Act, shall be fined Five Thousand Pounds of Tobacco to the use of the Publick.

XL.

Fines to be disposed of by the Assembly.

WHereas divers Trespasses against the Publick, are punishable by Fines, which are by the present Law to be disposed of to the use of the Counties in which the Trespass is committed, and yet nothing done for the good of any County, as was intended; whereby it may be presumed, that the said Fines are either not gathered, whereby the Trespassers by this lenity and impunity, are encouraged to persist in their Contempts of the Laws; or else, the said Fines are by some evil Commonwealths-men perverted to their private uses: For prevention whereof, for the future, Be it enacted, That the Courts shall only lay and collect the Fines; and that they cause the Clerk of their respective Courts, to keep an Account thereof, and to return the Estreatments to the Clerk of the Assembly at James-City, by the Third of the General Court held there in March yearly. And it is further enacted, that the said Clerk of the Assembly, do annually attend accordingly, during the time at the place aforesaid, to receive them; and at the next Assembly to present them to the Burgesses, who are to order the disposal of the said Fines, as to them shall seem most necessary for the good and benefit of the several respective Counties wherein they accrued due, always proportioning to every County the use of all the Fines, which were levied therein.

XLI. Su-

XLI.

Superfedeas by whom, and how grantable.

WHereas the Writ of *Superfedeas* hath of late been too frequently granted upon slight pretences of error in the Court, thereby not only injuriously delaying Justice, and keeping men from their Just Dues, but also bringing Calumnies and Aspersions upon the Courts themselves: Be it therefore enacted, That no *Superfedeas* whatsoever, shall hereafter be granted but by the Governour, and two of the Council; nor by them, unless the Party desiring it, make it probably appear to them, that there is Error in the Judgement; and shall then also give good security to make good his Plea; and, if he be cast at the next *General Court*, to pay the Principal with Five and Twenty per Cent. Damages, besides Costs.

XLII.

Prisons to be built in each County.

WHereas the First Act of the Assembly held at *James-City*, the third of *November*, 1647. and continued by the Assembly held there, the Third of *March*, 1657. for prevention of escapes for Prisoners, hath enacted, That sufficient Prisons should be built in each County; and that an House built after the form of a *Virginia-House* (our abilities not extending to build stronger) should be accounted a sufficient Prison; and that any Person being a Prisoner for Debt or Crime, and breaking one of those Prisons, should be proceeded against as a Felon; and that neither Courts, Commissioners, nor Sheriff should be answerable for such escape. And whereas the Sixty first Act of the Assembly, held at *James-City*, the said Thirtieth of *March*, 1657. makes the several Counties not building such Prisons, lyable to the Sheriff, for the Escape of any Person committed to his Custody; which Acts have for want of a Penalty, never been put in Execution: for want whereof, Felons may escape, and Debtors for want of due Restraint, delay always, and defraud oftentimes, the Creditor of his Just Dues; and by means thereof, the Law it self made wholly void: which intended principally, that all men should, by that Restraint have been forced to make a speedier Satisfaction. For remedy whereof, be it hereby enacted, That according to the said Acts, a good strong Prison after the Form of *Virginia-Houses*, be builded within Eight Months after the Date of this Act by the Court at the charge of the County, upon Penalty of being

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being fined Five Thousand Pound of Tobacco, and be answerable for escapes as aforesaid; and, that the person breaking Prison, shall according to the said Act of the 13th of Novemb. 1647. be adjudged a Felon; and, that no Person under Execution for Debt, or imprisoned for Felony, shall have the benefit of the Rules; and all other persons having the benefit of the Rules, shall be secured, and lye in Prison every night at the peril of the Sheriff.

XLIII.

Dwellers within the Rules of any Prison not to have any benefit thereof.

And be it Enacted, That if the Sheriff shall permit any person dwelling within the Rules of any prison, that is by Warrant, or Order of Law committed to Prison, to walk abroad out of Prison, though with a Keeper, and to have the benefit of the Rules, or to lodge in his own House, the said Sheriff upon proof thereof made at the County-Court by the Plaintiff, shall be ordered to pay the Debt, as in case of Escapes.

XLIV.

Sheriffe to be chosen in the Commission.

FOrasmuch as the Commissioners of County-Courts, are by the Laws of this Countrey answerable for the Levies and Estreame-ments of each County, of which the Sheriff is usually the Collectors: Be it therefore Enacted, that none but one of the Commissioners of each County shall be Sheriff for that County, and further, that the Commissioners shall exercise the Office of Sheriff successively as they hold their places in Commission every one a whole year, and no longer; Provided, That every such Commissioner, before he be admitted to take his Oath, give in good security for the due execution of his Office and performance of the trust committed to him, and then his Oath be administred unto him. And be it further Enacted, That no Under-Sheriff shall execute the Office of Under-Sheriff in the same County above one year: Provided alwayes, That the Sheriffs of James-City, who are more immediate Officers then any other to the General-Courts, and the Publique shall be left to the Governour's free choice: And further, That, if the Governour see cause for the better promoting any of his Majesties especial services, it shall be left to his discretion to pass by any person in any other

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other Commission and to give the place to those in the Commission he shall think most meet, to supply the exigent of the present occasions. But because the Laws, as well of *England* as of this Countrey, prohibit the executing the Office of Sheriff by any person two years together, the Governour is earnestly desired by the Assembly in any of his Elections not to infringe those Laws.

XLV.

Sheriffs not making Return.

WHereas the Sheriffs, often through neglect, often for favour to the Debtors, omit the serving the Process to them directed, and making Returns thereof according to Law, by means whereof the Courts are prolonged, Justice is delayed, and the parties by their attendance and expences very much endamaged: Be it therefore Enacted, That every Sheriff failing to make sufficient Return (that is, that the Writ is executed, and the Name of the Bail taken, of any Warrant to him directed three dayes at least before the day of the Return of the Writ in the *General Court*, and two dayes before the *County Court*) shall be amerced One thousand pounds of Tobacco; one half to the Plaintiff if he sue for it, and the other half to the County; Provided, That the said Plaintiff prove the delivery of the Warrant to the Sheriff.

XLVI.

Sheriffs to take Bail.

BE it also Enacted, That all Sheriffs shall take sufficient Bail of all persons arrested, and perform the award of the Court, and, if the Sheriffs shall neglect to take sufficient Bail of the party arrested, or otherwise consent to be the cause of his escape, then the said Sheriff shall be lyable to pay the award of the Court himself, and shall also pay, in case the consent to the escape be proved, One thousand pounds of Tobacco, one half to the Publique, the other half to the party grieved, for his delay in recovering the debts; but if Bail be taken, and the party appear not to answer the suit, then Judgment shall be awarded against the Bail: Always Provided, That the Sheriff or Bail, shall, if they desire it, have an Attachment against the Estate of the party arrested, and not appearing. And further, that if the Sheriff or Bail shall not the next Court after that to which the Arrest was made, bring forth the body of the Party so arrested to answer the Suit, then the Sheriff or Bail, shall be acquitted, for the Judgment passed against them.

XLVII.

other Commission into giving place to those in the Commission
 XLVII.
Non est Inventum.

BE it also Enacted, That if any Sheriff shall return a *Non est Inventum*, upon which an Attachment by a former Act, hath been usually granted, when perhaps neither the Sheriff nor his Officer have been at the Houses of the Defendants to the great damage and disparagement of the said Defendant, by having his Goods Attached: Be it therefore Enacted, That henceforth, the Sheriff or his Officer, shall declare, upon one of their Oaths, that he hath been at the House of the Defendant, and hath there left a Copy of this Vindicta, before his return of *Non est Inventum* be admitted; and if he shall refuse to make such Oath then Order to pass against him, according to the Act for Non-returns; but if the return be proved, and allowed in Court, then after the sequestrating the defendant by Proclamation in Court, an Attachment shall issue against his Estate returnable at the Court following; where, if the Defendant appears, not to replevin the Attachment, Judgment shall be granted to the Plaintiff for his Debt, being made evidently appear to the Court that it is justly due to him.

XLVIII.

Apprisement of Goods.

BE it Enacted for the Equal Apprisement of Goods seized by Execution, That the Plaintiff and Defendant shall choose each of them two indifferent men for that purpose; And in case of disagreement, the said four, or any three of them, shall choose an Umpire; which Umpire so chosen shall be sworn by the next Commissioner to appraise such Goods indifferently, and his Umpirage to be final. And be it further Enacted, That if Plaintiff or Defendant shall neglect to appoint Appraisers within three days after Execution is served, notice being given them by the Sheriff to whom the Execution was directed, that then the Sheriff in such case of neglect shall choose and appoint Appraisers either for the Plaintiff or Defendant, for appraising the Goods by him seized upon Execution as aforesaid. And be it further Enacted, That before such Apprisement, the Sheriff shall not remove the Goods out of the possession of the Plaintiff, and the surplusage, if any, be returned to him, but after Apprisement made as aforesaid, the property to vest in the Sheriff for the use of the Creditor to whom the Sheriff shall give notice, that he may take

take them into his own possession; and, because there can be no Averment against a Record, It is further Enacted, That the Sheriff make return of the Execution to that Clerk of the County that granted it by him to be entered upon Record, under the Order it was issued upon, that so the Satisfaction as well as the Judgment may be authentically proved, if occasion require.

Whereas the Act for the Relief of poor Prisoners, hath, contrary to the intent thereof been extended to men of all capacities, and by that means an inconsiderable part of their Estates, or at least unprofitable to him, whose dependance is Tobacco, according to his agreement forced for Satisfaction: Be it therefore Enacted, That henceforth every Debtor under Execution for Debt shall be detained in Prison, until he have paid the debt in kind, but that real poor men laid under Execution for a Debt under One Thousand pounds of Tobacco shall still have liberty, by part of their Estate by some Justice of the County indifferently assigned, and by Appraisers summoned by the Sheriff, and sworn equally to appraise the said Estate, shall make payment thereof to their Creditor, and redeem their persons.

XLIX.

No Commissioner, Clerk, or Sheriff, to be Attorneys in the Court where they officiate.

BE it Enacted, That neither Sheriff, Commissioner, Under-Sheriff, or Clerk of any Court within this Colony shall be permitted to plead as an Attorney in any persons behalf in the Court wherein he Officiates, and the said Commissioner, Sheriff, Under-Sheriff, or Clerk, offending herein, shall for every default be fined One thousand pounds of Tobacco to the use of the County. Provided alwayes, That if any poor person not able to plead his own cause, shall request the Court to Assign him one of the Commissioners to plead for him, it shall be lawful for the Court to grant it, and for the Commissioner to plead accordingly, but the Counsellor, Commissioner, &c. No pleading the poor man's cause nor to give Judgment therein: Provided also, That any Commissioner-Sheriff, Under-Sheriff, or Clerk acting as General Attorney for any persons, absent out of the Countrey or County and Negotiating their affairs, and so lyable to be sued for their employers, such persons notwithstanding this Act shall have liberty also to plead and prosecute in any Cause that shall any way concern their said Employers.

Publication of Writs for Election of Burgesses.

W Hereas frequent Complaints are made by the people, that they have no notice of the time appointed for the Election of Burgesses, and by that means are deprived of giving their voices in the Election of their own Representatives: Be it Enacted henceforward That the Sheriffs of the respective Counties, shall upon the Receipt of the Writ, cause Copies thereof, with the day appointed for the Election endorsed, to be sent to the Minister or Reader of every Parish in their County, who is to read the same to the People two Sundays successively, both in the Church and Chappel of Ease to it belonging, to the end that no person may pretend ignorance; and return the same to the Sheriff, with his Attestation subscribed, that he hath published the same according to the tenor of this Act; which Attestation shall be sufficient to discharge the Sheriff from blame: But if the Sheriff neglect to send Copies, as aforesaid, then to be fined Two thousand pounds of Tobacco, to the use of the County. And every Freeman, after such publication made, neglecting to come and give his Vote at the day appointed for Election, shall be amerced Two hundred pounds of Tobacco, to the use of the County. And be it further Enacted, That if the Sheriff shall not, before the day of the Return, make his due Return of the Writ, with the names of the Burgesses endorsed, into the Secretaries Office at James-City, the said Sheriff so neglecting, shall be fined Two thousand pounds of Tobacco to the publique.

Publique Levies to be first paid.

BE it also Enacted, That no Sheriff shall, where he receives Tobacco of any person indebted for his Levies, and also for Fees, and other debts due to himself, or any other Officers, and not paying the whole in kind, by which means, for part thereof distress must be made, shall presume to convert the Tobacco in kind, to his own or any others use; and force the Countrey Creditour to accept of the distress, or stay for his debt. But that all debts due to the Publique be first paid, and the Tobacco in kind paid to the Creditour of the Publique, whose Reputation is, by these Evasions, often vilified; and that the Sheriff making default herein, shall be fined Ten thousand pounds of Tobacco to the use of the Publique, upon proof thereof made in any Court of Record in this Countrey.

LII.

The Sheriff, upon the instance of the Treasurer, or his Deputy, to Collect the Quit-Rents.

AND be it further Enacted, That the Sheriff, being his Majesties immediate Officer, shall, upon the instance of his Majesties Treasurer, or his Deputy here, be compelled to receive all such Quit-Rents as the said Treasurer, or his Deputy, shall give him order to receive in his County, and that the said Quit-Rents be paid, as the Levies, in the direct *specie* of Tobacco, or Money, and that no particular Fees or Debts be preferred before them, under like penalty as for the payment of other Debts before the Levies.

LIII.

List of Tithables how to be taken.

WHEREAS the fraud of Sheriffs in bringing in the Lists of the Tithables, hath very much augmented the Taxes of the Country: Be it Enacted, That for the better discovery of the number of Tithables, each County shall be divided into several Precincts, in each of which, a Commissioner shall be by the Court appointed to take a List of the Tithables, to be brought or sent in under the hand of the Master of every Family, of the names and number of Tithables, he hath in his Family; and if he bring in a false List, the said Master shall pay treble duties for every person so by him concealed. And be it further Enacted, That the said Commissioner give publique notice, in Writing, to be read and set up at the dore of the Church or Chappel of Ease, of the Precincts he is to take account of, and of the day he will receive them. Provided, the day be before the Tenth of *June* at farthest, at which time every person neglecting to bring in his List, as aforesaid, shall be adjudged a Concealer, and pay accordingly; and every Commissioner failing in giving notice, neglecting to take the List, conniving at others concealment, or not giving a true List of his own Tithables, shall also pay treble duties, as aforesaid. And be it further Enacted, That every Commissioner in *August-Court* following, shall deliver the Accompt, so taken by him, and the Subscriptions of the several Masters of Families, to the Clerk of the *County-Court*, who shall return an exact List of the Families to the Clerk of the *Assembly*, the first or second day of every *September-General-Court*.

LIV.

What persons are Tithable.

WHereas several Disputes have been made of what persons were Tithable; It is hereby enacted and declared That all Male persons of what age soever, imported into this Country, shall be brought into the Lists, and be lyable to the payment of all Taxes. And all *Negro's*, Male or Female being imported, shall be accounted Tithable. And all *Indian-servants*, Male or Female, however procured, being adjudged sixteen years of age, shall be likewise Tithable. From which none shall be exempted but such Christians only, as are either Natives of this Countrey, or are imported free by their Parents, or others; who shall not be liable to the payment of Levies, untill they be sixteen years of age; or such others, as by particular Acts of Assempby are exempted.

LV.

Counsellors and ten persons, to be exempted out of the Levy.

BE it Enacted, That each Councillour of State, for this Countrey, shall be freely exempted from all Publique Charges and Taxes, for themselves and ten of their Family; the Ministers and Church-duties excepted. And further, that all Ministers officiating in any Cure of this Country, shall, for their attendance on the *General-Courts*, and *Assemblies*, be exempted themselves, and six of their Family, from paying any Publique Taxes. And further, that all persons that came into this Countrey, at the last coming in of *Sir Thomas Bates*, shall have their own persons exempted from paying of any Publique Taxes, Church-duties excepted; and also from their personal service in the Warrs.

LVI.

Artificers not planting Tobacco, freed from payment of the Levy.

AND whereas all persons, Artificers and others, are forced to neglect their Trades, and to plant Tobacco meerly for the payment of their Levies: Be it Enacted, That what Artificer or Handicrafts-man soever will imploy himself and Servants only about their Trades, and not plant any Tobacco at all; every such Artificer and Handi-

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Handicrafts-man so following his Trade, and not planting Tobacco, either by himself or servants, shall for his encouragement be exempted from paying any Levies, either for himself or servants, for the term of three years, except it be for the Ministers dues, and Church duties. Provided alwayes, that if any person claiming the benefit of this Act, shall directly or indirectly, at home or abroad, plant or tend, or cause to be planted or tended, any Tobacco, contrary to the intent of this Act; or hire out his servant or servants, to others to plant or tend Tobacco, he shall be censured to pay double Levies for himself and all his Tithables, to the use of the County.

LVII.

Counsellours to raise a Levy.

WHereas the necessary charge of the Country doth enforce the raising of an Annual-Levy, which being commonly done by an Assembly, the charge of which doth most times equal, if not exceed, all other Taxes of the Country; Be it therefore Enacted; That the Governour and Council in *September 1662.* shall have power to raise and proportion a Levy, to defray the Country debts and Salaries, allowed by the Assembly; and such other Debts also as they shall find justly and necessarily due, according to the number of Tithables: Provided, the whole amount not to more then Twenty pounds of Tobacco *per poll.* And this Act to continue for three years, unless some urgent occasion present in the mean time, of calling an Assembly. And that the Levy may be truly proportioned; Be it enacted further, That every Clerk of a *County-Court*, transmit the Certificate of the number of Tithables in his County, to the Secretaries Office, in every *September-Cours.*

LVIII.

No Arrests to be made on the Sabbath-dayes.

WHereas it hath been the frequent practice of Sheriffs, and their Officers, for their own ease and benefit, to repair to the Churches, and other places of Publique meetings, on purpose to serve Warrants, and Executions, and other Writs; by which means, men in danger of Arrests have been deterred from the service of God and the King: Be it Enacted, That no Sheriff, nor his Officer, shall from henceforth execute any Writ or Warrant upon any person or persons either upon the Sabbath-day, or upon the day of Humiliation for the death of the late King of blessed memory, or upon

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the dayes appointed for thanksgiving for his Majestie's happy Inauguration, and for the Deliverances of this Countrey from the two Bloudy Massacres, nor at the times of General Musters, or Election of Burgeses. Provided alwayes, that it shall and may be lawful for the Sheriff, or any other Officer, to apprehend and carry to Prison any person or persons for Riots, Felony, or suspicion of Felony, or escape out of Prison when under Execution, upon any day, at any place, anything in this Act to the contrary notwithstanding.

LIX.

Reward for Killing of Wolves.

WHereas great complaint is made of the frequent and many injuries done by *Wolves* to the Cattel and Hogs, of several Inhabitants of this Countrey: It is therefore Enacted, for the encouragement of those that will make it their business to kill and destroy them, that they shall be paid by the County, in which they are killed; for every Woolf destroyed, by Pit, Trap, or otherwise, Two hundred pounds of Tobacco. Provided, he make proof before the next Commissioner, how the Woolf was killed, and bring in his head, and take from the said Commissioner a Certificate thereof; which being produced to the Court, when they are proportioning the Levy, shall be sufficient to have the said Reward raised upon the County, and to be paid to such persons as it is justly due.

L X.

Commissioners to take Security of Sheriffs.

BE it also Enacted, That the Commissioners of every County shall be answerable to the Publique, for all Levies laid upon their County by Act of Assembly; and, for the Sheriffs performance of his place, and in regard thereof, are hereby impowred, before the admission of any Sheriff into his Office, to take such security of him as they shall think fit and sufficient to save themselves harmless, for the Receiving and Discharging all Publique Duties, whether Quittrents, Levies, or Officers Fees, committed to his charge of Collection, and for the due performance of his Office. Provided, that no Commissioner shall be liable, but such as were of the Commission when the Defect was made.

LXI.

Judgement before Commissioners.

BE it enacted, That the voluntary confession and acknowledgement of a Debt by the Debtor, under his Hand and Seal, before two Commissioners, of which one of the *Quorum*, shall be accounted in Law, in the Nature of a Judgment; the said Commissioners attesting the same under their Hands, and so certifying it to the Clerk of the *County-Court*, to enter it upon Record; upon which Writing so acknowledged, attested, and Recorded, Execution shall issue, in case, the Debt be not paid, as if Judgment had been granted for the same in open Court. Provided, that if no Execution issue within a year after such acknowledgment, then a *Scire facias* shall issue, before any Writ of Execution shall issue forth.

LXII.

Persons removing into the Bay.

FOR avoiding of Creditor's Charges, and Troubles, in recovering their Debts by reason of divers Persons removing themselves from the places where they contracted their Debts, into remote Counties: Be it enacted, That no Person whatsoever shall remove out of the County where he dwells, unless he first set up his Name at the door of the Parish-Church or Chappel where he dwells, three Sundays together; and in the same, express his intent of leaving the County, and certify the place he is about to remove to; and take Certificate thereof from the Minister or Reader of the said Church or Chappel, and the Church-wardens of the Parish, to the Clerk of the *County-Court*, who shall grant him thereupon a License to depart. Provided alwayes, That if the said Person so removing, pay not his Debts contracted, before his removing, according to the Tenor of the Specialties, by which they are due; It shall be lawful for any of his Creditors, by a Warrant from the Secretaries Office, to bring the Debtor personally before the Governour, or any of the Council, for what value soever the Debt be of; and there put in sufficient Security, for performance of his Obligation, according to the Tenor thereof, in case the Day of payment be not past (any Restriction in any other Act to the contrary, notwithstanding) and then to take out Execution against his Body, or Estate, for satisfaction of the said Debt.

And be it further enacted, That if any Person or Persons shall be-

fore, or after Certificate obtained as aforesaid, remove or transport any Cattel out of the County he dwelled in, without notice given to four of the nearest Inhabitants, (who are hereby required to take especial notice of the Ear-Mark and Colour of the Cattel to be removed, and make a List of them and their Marks, and carry the same, subscribed by the said Viewers, to the Clerk of the County-Court, to be Recorded) ; he shall, upon lawful conviction, forfeit for every Beast, transported contrary to the Tenor of this Act, One Thousand Pounds of Tobacco, one half to the Publick, and the other half to him that shall make the Complaint against the Party so offending. And if any Merchant, Mariner, or any other Person whatsoever, shall transport any Person or Persons out of his County without Certificate as aforesaid, the said Merchant, Mariner, or other person, so offending, shall be lyable to the payment of all the Debts and Engagements of the Party transported, being due at the time of his Removal.

LXIII.

English Weights and Measures.

Whereas daily Experience sheweth, that much fraud and deceit is practised in this Colony by false Weights and Measures ; for prevention thereof, Be it enacted, that no Inhabitant or Trader hither, shall buy, or sell, or otherwise make use of, in Trading, any other Weights or Measures, then are used and made according to the Statute of *England* in that case provided. And for discovery of Abuses, Be it further enacted, That the Commissioners of every County, do provide at the Charge of the County, sealed Weights of Half-hundreds, Quaterns, Half-Quaterns, Seven pounds, Four pounds, Two pounds, One pound ; Measures of Ell and Yards ; of Bushel, Half-Bushel, Peck and Gallon of *Winchester*-Measure ; Gallon, Pottle, Quart, Pint, of Wine-Measure out of *England* ; and that the said Weights and Measures be kept by the First of every Commission at his house, and with them a burnt-Mark of *Iron* and a Stamp for leaden Weights, and Pewter-Pots ; whither all Persons not using Weights or Measures brought out of *England*, and sealed there, shall bring all their Barrels (which are to contain five Bushels) and other Measures to be sealed, and their Stilhs to be tryed ; and all Persons selling by other Weights or Measures not sealed, and tryed as aforesaid, shall forfeit One Thousand Pounds of Tobacco, one half to the Publick, the other half to the Party that shall make his Complaint ; and if the Commissioners shall make default of producing such Weights, Measures, Scales, and Stamps, as by this Act they are enjoyned by the

the first of December, 1663, the said Commissioners shall be fined five thousand pounds of Tobacco, to the use of the Publick.

LXIV.

County-Courts to grant Probates and Administrations.

BE it enacted, that the *County-Courts* shall be impowred to grant Probates of Wills, and Administrations upon the Estates of Persons dying intestate, to take Security, and receive the Inventories of the said Estates: Provided, That the Clerk of the *County-Court*, when he sends or carries the said Probates, or Commissions of Administration to be Signed, do then also certifie into the Secretaries-Office, the name of the Testator, or the Party deceased, the Executors or Administrators, and their Security, the County and Parish where they dwell, and the *Court* wherein the Administration is granted, so the end that Strangers and other Creditors invested in the Estate, may be the better enabled to find out the Records, in which the Account of the Estate is entered, and be informed, how they may come to their just Dues.

LXV.

Administrations to whom to be granted.

WHenceas Commissioners of Administration are suddenly obtained, and the Estate as suddenly disposed of, under the pretence of greatest Creditor, or next of kin, whereby oftentimes they that really are so, are the one defrauded of his just Debt, and the other debarred of his Right and Interest, before either can have notice of the Partic's Decease: Be it therefore enacted, That no Administration be granted, until Nine Months after the Partic's Decease; except to the Widdow or Child, and then to be immediately granted, the said Widdow or Child bringing in sufficient Security for performing all things the Law requires, and saving the *Court* harmless. And be it further enacted, that, in case the said Widdow or Child do administer, the Estate shall be inventoried, and apprizement made by four men appointed by the *Court*, and sworn by a Justice of that *Court*, as formerly; which Inventory and Apprizement shall by the said Widdow or Child, be brought into the next *Court*, held in that County; unless the *Court* for Reasons shewed them, may think fit to grant Liberty to bring it in the *Court* following. But in case, the Decedent die without Widdow or Child, then it is enacted, That the estate for the better improvement thereof, be sold by the *Court* at an Oucry,

and the Purchasers all putting in security, and acknowledging Judgments for their Debts, which by the Court shall be assigned to the several Creditors of the Decedent, and paid according to the Priority in Law: and the surplusage remaining (if any) to be delivered to the next Kinsman of the Decedent, if he appears; or, if none prove himself such within three years, then the Court to give an Account of the said surplusage to the Assembly who are to dispose of the same to the use of the County; allowing to the Court, or whom they intrust for the managing of it, for his reasonable costs and pains.

And, when the Widdow or Child Administres, the Surplusage (after Debts paid, and the funeral charge according to the quality of the person allowed for) shall be equally divided between the Widdow and Children (*viz.*) one full third of the personal Estate to the Widdow, and the other two Thirds among the Children: if any of which dye before it come to age, his proportion to be divided among the surviving Children.

And whereas, It hath been the frequent evil practice of Administrators, as soon as they have obtained an Order to Administer, to Act as Administrators by virtue of that Order, without giving security, or taking out their Commissions, so that, the Estate being imbezelled away, no Account can be given thereof. Be it therefore Enacted, That who ever pretends to Administer upon any Estate, shall bring to the Court sufficient security before the Order shall be granted: and an Order thus obtained legally, by giving such security to be truly accomptable to bring in a true Inventory, and to perform such things as the Administrators by Law are enjoyned, shall not at any time after be reversed, unless the party that obtained the same dye before he hath given an Account of the Estate, and obtained his *Quittance*. In which case, the Court is impowred to grant the Administration of that Estate, so not accompted for to some other person, who may by virtue thereof call his Heirs, Executors, or Administrators of the former Administrators to Account, who shall pay out of the said deceased Administrators Estate, all such debts as shall be found due to the Estate he Administred upon in the first place.

LXVI.

Concerning Orphans.

Concerning Orphans Estates be it enacted, That all Wills and Testaments be firm and inviolable, unless the Executors, or Overseers, do refuse to execute the Trust reposed in them by the Testator. In which case, the Court may appoint others to Act according to the Will; but, if the said Will be so made, that no person will under-

undertake the managing of the Estate or Education of the Orphans, according to the Tenour of it; then that the Estate by the appointment of the Court shall be managed according to the Rules set down for the ordering the estate of persons Intestate, as followeth;

First, That no Accompt be allowed for Dyer, Clothes, Physick, or else, against any Orphans Estate; but they to be Educated and provided for, by the interest of the Estate and Increase of their Stock according to the Proportion of their Estates, if it will bear it. But, if the Estate be so mean and inconsiderable, that it will not extend to a free Education; Then it is Enacted, That such Orphans shall be bound Apprentices to some Handi-craft Trade, until one and Twenty years of age except some Kinsman or Relation will maintain them for the Interest of the small Estate they have, without diminution of the principal, which whether great or small, always to be delivered to the Orphan at the years appointed by Law.

That all Cattel, Horses, and Sheep, be returned in kind by the Guardian according to Age and Number, when as he received them. And, because several had, before the first making of this Act, Estates of Orphans, in their hands which they kept for the Male-increase and giving the yearly Accompt of the Augmentation or Diminution of the Orphans Stock (which by the carelessness or wickedness of the Guardians was usually consumed before they came to age, and disputes thereupon arise in the several Courts, how such persons should be proceeded with, and Accompts of Orphans Estates, how to be given them. It is hereby declared, That all persons possessed of Orphans Stocks before the first making this Act, shall be bound to deliver to the Orphan when he comes to age, such and so many of any kind as he was possess of, when he gave his Accompt to the next Orphans Court succeeding the publication thereof.

That all Plate and Money be preserved and delivered in kind, according to the weight and quantity; that other Household-stuff and Lumber be apprized in Money and the value thereof paid by the Guardian to the Orphan when he comes to age in the Countrey. Commodities at the price Current; as it shall be worth at the time in the place where the Orphan Estate is managed.

That the Court take able and sufficient security for Orphans Estates, and enquire yearly of the security; and, if the Court see cause, to have it changed, and called in and placed as the Court shall think fit: the said Court to enquire also, whether Orphans be kept, maintained, and educated according to their Estates, and if they find any notorious defect to remove the Orphans to other Guardians. And also for those that are bound Apprentices, to change their Masters if they use them rigorously, or neglect to teach them their Trades.

That no more be allowed to Guardians for Collecting of Debts due to any Estate then ten in the hundred, the usual allowance of Merchants to their Factors and Attorneys.

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That

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That Thirty pounds of Tobacco per day be allowed to each Appraizer for Apprizement of any Estate (if they will take it) and no more.

That no allowance be made by the Court of Excessive Funeral expences, but that a Regulation thereof be made according to the Proportion of the Estate, and the Quality of the Person.

LXVII.

Orphans Land not to be aliened.

BE it also Enacted for the future benefit of al Orphans, That the several *County-Courts*, do take into their serious consideration and care, that the Lands in their County belonging to any Orphan, be not aliened, sold, or taken up as deserted Land, by any persons during the minority of the Orphan; and that the Guards or Overseers of any Orphan do not lett, set, or Farm out any Land belonging to any Orphan, for longer Term than until the Orphan be of age; and that an especial care be had, that the Tenant shall improve the Plantation, by planting an Orchard and building a good House, and that the Tenant be bound to maintain good Fence about the Orchard, and keep the House in sufficient repair, and leave it Tenantable at his surrender; and that Provision be made in the Lease for preventing all Waste of Timber, or employing it to any other use then the use of the Plantation.

LXVIII.

Grants of Land.

BE it hereby Enacted, That any person or persons, claiming Land as due by Importation of Servants, shall first prove their Title or Just Right before the Governor and Council, or produce Certificates from the *County-Courts*, to the Secretarie's Office, before any Survey be made or Grant admited. It being unreasonable, that others furnished with Rights should be debarred by pretence of a Survey which in it self is no Title.

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LXIX.

Deserted Lands.

BE it also Enacted, That no Patent of Land shall hereafter pass upon pretence that the Land is deserted for want of Planting within the time of three years, unless proof thereof be made before the Governor and Council, and an Order obtained from them for the Patenting thereof; neither shall the first Petitioner for any deserted Land be depriv'd of having the first grant, he making his Rights appear, when he Petitions for the Land. And whereas the former Act concerning deserted Lands reserved to the first taker up his Rights to take up Land in another place: It is here Enacted, That in regard he hath had the benefits of his Rights, held the Land in possession, might make use of the Timber without contradiction, and yet neither pays the King any Rents, nor suffers him to admit any new Tenant, that the Rights aswell as the Land shall be forfeited, and the Grantee made incapable of using any of them afterwards. Provided, that any person having taken Upland, deserted before the making of this Act in November, 1652. shall not by virtue of this Act be oust of possession.

LXX.

Seating upon others Dividents.

WHereas divers Suits have risen about Seating ignorantly upon other mens Lands; for desiding the same; Be it enacted, that, if any person whatsoever hath built or seated upon any Lands, supposed his own, but proving by a Just Survey to belong to another, the charge of such building, Seating or Cleering, shall by twelve men upon their Oaths be indifferently valued and the consideration by the said Twelve men so adjudged shall be paid by the owner of the Land to the first Seater that was at the charge. But, if that shall amount to more then the said Owner is willing to disburse, then the said Twelve men shall make a valuation of what the Land was worth before the Seating thereof, which the Seater shall accordingly pay to the true Owner. Provided alwayes, That no consideration, shall be allowed for Building or Cleering, to any person that shall obstinately persist after lawful warning given him to desist.

LXXI.

Not to Shoot or Range upon other mens Lands.

WHereas the Rights and Interests of the Inhabitants are very much infringed by the hunting & shooting of divers men upon their Neighbour's Dividends, contrary to the Priviledges granted them by their Patents, whereby many Injuries do dayly happen to the owners of the said Land; Be it Enacted, That if any Planter, or other, shall hunt or shoot within the limits of another's Dividend without leave first obtained from the Proprietor, he or they so offending shall forfeit for every such Trespass Four hundred pounds of Tobacco, one half to the Owner of the Land, and the other half to Publique uses. Notwithstanding, it shall be lawful for any person or persons to hunt or shoot upon any Dividend of Land, not planted, or sowed, though taken up without restraint or penalty. Provided also, That it shall be lawful for any person, that hath shot any game without the limits of another mans Land, to pursue the same into any mans Dividend, and freely to carry away the same; as also to seek or fetch his own Cattle or Hogs off, of any mans Land; first giving notice to the owner of the Land of his intent; and of the time he intends to stay upon it, to the end that the said owner may, if he think fit, send one to see what Cattel or Hogs he drives away. Provided alwayes, that it shall be lawful for the Governour to Commissionate some Gentlemen to give licence to persons to hunt wild Hogs upon any mans Land without their Fenced Plantations.

LXXII.

Lands five years in possession.

WHereas sundry Suits and Controversies have been, and dayly do arise, about Claims and Titles to Lands, to the great impoverishing of divers persons: For Remedy whereof, and for the better establishing the Inhabitants in the Rights and Possessions hereafter; Be it Enacted, That all persons whatsoever, that have or do pretend any Title to any Land, shall prosecute their Claims before the said Land hath been peaceably enjoyed Five years; otherwise, it shall be a good plea in Bar for the Possessor of such Land Claimed or Possessed, to affirm, He hath had peaceable Possession, without Claim, by Commencement or Prosecution of Suit, full five years: proof whereof, shall be a sufficient Confirmation to the Possessor, and shall conclude the Claim and Title of the pretender. And this

this Act to extend to all such as have not prosecuted their Title within five years, since the 6 day of *October*, 1646. Always provided, that the limitation of five years in this Act expressed, shall not bar Orphans, nor Widows under Covert, nor persons out of the Countrey, nor persons of unsound mind: But that the said Orphans shall have five years, after they be of Age; Women five years free from Coverture, (*viz.*) If she marry again before her five years are expired, and her husband omit to make Claim, his omission shall be a good bar against him; but if the Woman survive, she shall have so long time allowed her to Claim in, as will make up the first time of her freedom, Five years. Persons of unsound mind, five years after their recovery from their impotence. Persons out of the Countrey, five years after their Arrival in the Countrey: Provided, they come in within two years after the Title to the Land became due; in which times, if they Claim not, as aforesaid, to be utterly barred for ever. For otherwise the expectation of Heirs, out of *England*, where there is none born here, must in a short time leave the greatest part of the Countrey, unleased and unpeopled; no man knowing how or of whom either to purchase or take Lease.

LXXIII.

Against Fraudulent Conveyances.

BE it enacted and confirmed, That no person or persons whatsoever, shall pass over by Conveyance, or otherwise, any part of his Estate, whether Lands, Goods, or Catel, whereby his Creditours, not having notice thereof, might be defrauded of their just Debts; unless such Conveyance, or other Deeds, be acknowledged before the Governour and Council, at the *General-Court*, or before the Justices at the *County-Courts*, and there Registred in a Book for that purpose, within six moneths after such Alienation. And whoever shall make over or alienate any part of his Estate, otherwise then is here expressed, the same shall not be accounted valid in Law, nor shall it bar any Creditor, by seizing the same by Law, for satisfaction of the Debt; the Property of the Estate not being legally vested in any but the first Vendour. And it is further Enacted, That any Conveyance made, and acknowledged, and recorded, shall not be held good in Law, against any Creditours, or former Purchasers, until four moneths after such Acknowledgment made and recorded; in which time the Creditours, or former Purchasers, may shew for what cause the said Conveyance is to be accounted Fraudulent; but if none appear within the said four moneths, after the first Acknowledgment in Court, then the Sale shall be for ever after good, against all other Claimers or Pretenders whatsoever; unless such

as pretend to overthrow the first sellers Title, in whom only five years possession can bar. Provided, that this Act shall not extend to such persons, who, for satisfaction of just Debts, shall make a Bill of Sale of their Estates, or any part thereof, and deliver it *bona fide*, into the possession of the Creditour; but such Act shall be good and valid, to all intents and purposes, this Act being made only to prevent fraud and deceit.

LXXIV.

Quit-Rents how to be paid.

WHereas his Majesties hath by his Commissioners appointed a Treasurer to receive the Quit-Rents, and other Fees and Profits due to his Majesty; And the payment of Quit-Rents being due in Money, which we, being destitute of Coin, cannot procure: Be it Enacted, That those persons that cannot procure Money, shall pay their said Rents in Tobacco, at two pence *per* pound, to such Collector, or Collectors, as by his Majestie's Treasurer shall be appointed; and that the Countrey paying the Rents double, the two next years shall be acquitted from all Arrears by Assent of the Honourable Sir *William Berkeley*, who is authorized by the Treasurer to make Composition.

LXXV.

Surveyors of Land.

BE it Enacted, That Surveyors of Land shall demand no more than Twenty pounds of Tobacco, for measuring One hundred Acres of Land, if the parcel exceed Five hundred Acres; but if under, to be allowed One hundred pounds of Tobacco, and for the same shall deliver an exact Plot of each parcel Surveyed and Measured: And if any Surveyor, upon reasonable demand, shall refuse to measure the Dividend for any person whatsoever, for the consideration and satisfaction aforesaid, such Surveyor shall be liable to the censure of the Court, in that Countrey where he liveth. And if any Surveyor shall be desired to go further, from his place of Residence, than he can return in one day, such Surveyor shall have the allowance of Thirty pounds of Tobacco *per* day, for every dayes absence from his dwelling; and if his passage cannot be but by Water, then such persons as shall imploy him, shall provide for his transport out and home. Provided, no pay to be received before the Plot delivered.

LXXVI. *Land*

LXXVI

Land to be plainly Marked and Bounded.

WHereas many Contentious Suites do arise about Titles to Land, occasioned much through the Fraudulent and under-hand-dealing of Surveyors, who frequently make sales of the Surveyes by them made in the behalf of one person, to another; whereby, oftentimes, he that had the first and justest Right, is unjustly deprived of his due: For prevention whereof, for the future, Be it Enacted and Ordained, That no Surveyor of Land, shall give a Plot of any Land Surveyed by him, unto any other person whatsoever, untill six moneths after such Plot is drawn, according to its Survey. And that all Land Surveyed, shall be, at the Surveying thereof, plainly Marked and Bounded, for all persons to take notice of; that none may, by the ignorance of the Bounds, intrench upon anothers Right. And the persons offending, either in giving out of Surveyes, contrary to this Act, or not sufficiently marking his Bounds, to forfeit Five hundred pounds of Tobacco, for every hundred Acres the Survey shall be given of, to the use of the Countrey.

LXXVII

What Fences shall be sufficient.

BE it also enacted and confirmed, by this present *Grand Assembly*, That every Planter shall make a sufficient Fence about his cleared ground, at the least four foot and a half high; which, if he shall be deficient in, what Trespass or Dammage soever he shall receive or sustain by Hogs, Goats, or Cattel, shall be his own loss and detriment. And also, if it shall happen, that any person shall hunt any of the said Horses, Mares, Hogs, Goats, or Cattel, that shall so offend and do them harm, he shall make satisfaction for any of them that shall be so hurt, to the owners of them, to be recovered in any Court of Justice within the Colony. And it is further Enacted, That where any Horses, Mares, Cattel, or Hogs, shall endamage any person for want of such Fence, as aforesaid, and the party damaged, do wilfully kill, or otherwise hurt, so as the Cattel, Hogs, Horses, or Mares, do die of such hurt, whether by Dogs set upon them, or otherwise; in such case, the owner of the ground shall not only be liable to satisfy the value of such Horses, Mares, Hogs, or Cattel; but, by verue of this Act, be adjudged to satisfy double the value of such Horses, Mares, Hogs, or Cattel so killed, to the owners of them.

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And further, Be it enacted, That where the Fence shall be adjudged sufficient, (*viz.*) four foot and a half high, and close down to the bottom, that in case any Damage or Trespafs be then done or committed to any person, having such Fences, by either Horses, Mares, Goats, or any other Cattel whatsoever, the owners of such Horses, Mares, &c. shall be liable to make satisfaction for their Trespafs and Damage, to the person injured, in case the Fence be found by two honest men appointed by the next Commissioner to be sufficient.

LXXVIII.

Bounds of Lands to be every four years renewed by the view of Neighbourhood.

WHereas many contentious Suits are dayly incited and stirred up about the Bounds of Land, for which no Remedy yet hath been provided, the 57^h Act prohibiting Re-surveyes, not applying the expected Remedies; for if the Survey be just, yet Surveyors being, for the most part, careless of seeing the Trees marked, or the owners never renewing them in a short time, the Chops being grown up, or the Trees fallen, the Bounds become as uncertain as at first, and upon a new Survey the least variation of a Compass, alters the scituation of the whole Neighbourhood, and deprives many persons of Houses, Orchards, and all to their infinite losse and trouble. For prevention whereof, Be it Enacted, That within twelve moneths after this Act, all the Inhabitants of every Neck and Tract of Land adjoining, shall go in Procession and see the marked Trees, of every Mans Land in those Precincts, to be renewed; and the same course to be taken once in every four years; by which means, the inconveniency of Clandestine Surveyes, will be taken away, and the Bounds will be so generally known, and the marks so fresh, that no alteration can be made afterwards. And, Be it further Enacted, that the Bounds, by the consent of the present Proprietors, being once thus settled, shall conclude the said Proprietours, and all others Claiming from or under any of them, from any future Alterations of their Bounds; be there, within the said Bounds, more or lesse Lands then they pretend to. And if it shall happen any difference to be at present, that cannot be by the Neighbours themselves decided: Be it further Enacted, that two honest and able Surveyors shall, in presence of the Neighbourhood, lay out the Land in controversie; and the Bounds laid out to be the certain Bounds, and ever after to be renewed and continue so; (but the person causing the difference, to pay the charge of the Survey.)

Survey.) It tending much more to the preservation of Friendship among Neighbours, to have a present and final Decision of their differences, while men yet live that are acquainted with the first Surveyes, and while Land is yet at a low value, then it will be when time hath raised our all knowledge to the Bounds, and added a great value to the Land.

Be it Enacted further, That each County Court shall appoint and order the Vestries of each Parish, to divide the Parishes into so many Precincts, as they shall think necessary, for the Neighbours to joyn in, and see each others Marks renewed; and to appoint certain dayes, between *Easter* and *Whitsontide*, to go the said Processions, and put this Act into effectual Execution. And in case the Court shall omit to make such Orders, and to send the same to the several Vestries of the Parishes in their Counties, they shall be fined Ten Thousand pounds of Tobacco: And the Vestries failing to order the Precincts and the persons to go together, shall be fined Twelve hundred pounds of Tobacco: And the person failing to go upon the day appointed, or to renew his Marks accordingly, shall, for his neglect, be fined Three hundred and fifty pounds of Tobacco.

LXXIX.

Surveyors for High-ways.

W Hereas through the frequent Alterations of the High-ways; by falling of Trees over them, and many times taking them in to Fenced Plantations, to the great hinderance of Travellers and Traders; Be it therefore Enacted, That the Justices do yearly, in *October-Court*, appoint Surveyors of the High-ways, who shall first lay out the most convenient wayes to the Church, to the Court, to *James-Town*, and from County to County; and make the said wayes forty foot broad, and make Bridges where there is occasion. And the Wayes being thus laid out, and Bridges made, they shall cause the said Wayes to be kept cleer from Logs, and the Bridges in good repair; that all his Majesties Subjects may have free and safe passage about their Occasions. And to effect the same, the Vestries of every Parish, are, upon the desire of the Surveyor, hereby enjoyned and impowred, to order the Parishioners, every one according to the number of Tithables he hath in his Family, to send men, upon the dayes by the Surveyors appointed, to help them in Clearing the Wayes, and Making or Repairing the Bridges, according to the intent and purpose of this Act. And if any Court shall omit the appointing Surveyors, or they neglect the Executing their Office, or the Vestry to order the Work, or any person to send help according to the said Vestries order; the said Court, Surveyor, Vestry, or Person,

Person, shall be Amerced Five hundred pounds of Tobacco, to the use of the County. And if any person shall, contrary to this Act, fall Trees upon the High-ways, and not clear the same; or inclose any part of the said High-ways within any Fence; the Grand-Jury shall present the same as a common Nuisance, and the Inclosure shall be thrown open, and the Offender be fined One Thousand pounds of Tobacco, to the use of the County: And if any Counties have Creek or Swamp, limiting the Bounds between the said Counties, it is Enacted, that both Counties bounding upon such passage, shall contribute to the making the Bridge, or making the way over it.

LXXX.

Tobacco, when to be demanded.

WHereas many Creditors, for several by-respects, neglect the Demanding the Tobacco due to them in due time, by that means inforcing the Debtor to the inconveniency of not disposing of his Tobacco, and yet not paying his Debts, to the great damage and prejudice of the said Debtor: Be it therefore Enacted, that every person or persons, not demanding his or their Debts between the Tenth of *October*, and the last of *January*, shall not sue or implead any person or persons indebted to him or them for present payment; but it shall be lawful for any person, owing Tobacco, to dispose of the same for his own use, after the said last of *January*, if it have not been demanded, according to the tenor of this Act; and no execution to issue for a Tobacco-Debt, but against the person, who shall have liberty to free himself by putting in Security to pay the Debt the following Crop. Provided alwayes, that it shall be lawful for the Creditor, to sue or implead his Debtor for Security for his Debt against the next year; any thing in this Act to the contrary notwithstanding.

LXXXI.

Judgments and Specialties how long pleadable.

WHereas the nature of our Trade in *Virginia*, enforceth us to engage by Bills, Bonds, and other Writings, for discharge of which, in part or in whole, the Debtor is often constrained to accept of Receipts, the said Bills, Bonds, Judgments, and other Writings, remaining still in the hands of the said Creditor: and the Receipt being oftentimes lost, the Debtor, and especially the Executors, and Admi-

Administrators of a person Deceased, not being able to prove payment; these Debts are frequently demanded, and unjustly recovered, which before had been justly paid and discharged: For remedy whereof, Be it Enacted, That no Bills or Bonds be of force, or recoverable, five years after the date of the said Bills or Bonds; nor any Bills or Bonds heretofore made, five years after the date of this Act. As also, that no Judgment shall be of force seven years after the Grant thereof, or after the date of this Act, as aforesaid; but if the Debtor shall depart the Countrey, and leave no Attorney to Answer for him, or any other way conceal, or privily remove himself, into any part of the Countrey, and by that means render the renewing of the Bill impossible, such time of his absence or concealment shall not be accounted any part of the five or seven years limited.

LXXXII.

Attornies for Business out of England.

WHereas many persons in this Countrey, entertaine, as Attornies, many troublesome Businessses out of England, and other places, where justly there is no occasion for such Molestation; and yet the parties molested, are left destitute of relief, by reason the said Disturbers have no Estate in this Countrey, to satisfie Damages they are condemned in: Be it therefore Enacted, That no Atturney, by any power out of England, or else where, shall sue or implead, any person of this Colony, without giving first good Security that he the said Atturney shall pay all such Costs and Damages as the Court shall award against him, where the Law shall find that he the said Atturney hath by that power unjustly molested the Defendant.

LXXXIII.

Burgesses.

WHereas no provision hath been made for the certain Conveyance of Publique Writs for the Election of Burgesses; whereby the delivering the said Writs being Retarded, the Sheriff hath no time to give notice to the people, according to Law, nor make a timely Return of the Writs; nor can the Burgesses appear at the day: For remedy whereof, Be it Enacted by this present Grand Assembly, That the Secretary provide for the timely conveyance of the Writs into every County, to be delivered to the Sheriff thereof;

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thereof, and for his pains be paid One hogthead of Tobacco, weighing Three hundred and fifty pounds, for every County; and in case any neglect be proved against him, that he be fined for such neglect at the discretion of the Assembly: Always provided, he have the Writs signed forty dayes before the day of the Return.

LXXXIV.

Burgesses Ascertained.

WHereas the charge of Assemblies is much augmented, by the great number of Burgesses unnecessarily chosen by several Parishes: Be it Enacted, That hereafter no County shall send above two Burgesses, who shall be Elected at those places in each County, where the County-Courts are usually kept. Provided alwayes, that James-City, being the Metropolis of the Countrey, shall have the priviledge to elect a Burgess for themselves. And every County that will lay out One hundred Acres of Land, and people it with One hundred Tithable persons, that place shall enjoy the like priviledge.

LXXXV.

Burgesses Charges Ascertained.

WHereas the immoderate Expences of the Burgesses, causing divers heart-burnings between them and the People, occasioned an Injunction to make agreement for the Allowance before the Election, which may hereafter probably induce interested persons to purchase Votes by offering to serve at low Rates, by which means, that Candour and Freedom which should be in the choice of persons credited with so honourable and great a Trust, might be very much prejudiced, and the place it self become mercenary and contemptible: Be it therefore Enacted, That the Maintenance of every Burgess shall be One hundred and fifty pounds of Tobacco and Cask per day, besides the necessary charge of going to the Assembly and returning.

LXXXVI.

Burgesses to appear upon the day.

WHereas many inconveniences happen by the not appearing of Burgesses upon the precise day of the Return of the Writ,

as leaving the business of the greatest importance, the prudent choice of a Speaker, to a small party that first appears; upon which, divers animosities may arise in some that dislike the Election, to the great detriment of the Publique Affairs, which by this means are retarded, and the Charges of those Counties, whose Burgesses first appeared, increased: Be it therefore Enacted, That what Burgess forever shall fail in making his Appearance and Attending the Assembly precisely upon the day of the Return of the Writ, shall be fined for every day's absence, Three hundred pounds of Tobacco, to be disposed of by the Assembly, unless he be obstructed by some such impediment as the House shall judge might be a lawful and reasonable cause to hinder his coming.

LXXXVII.

Burgesses not to be Arrested.

FOR the Dispatch and Reputation of the Publique Business, Be it Enacted, That none of the Burgesses of any Assembly, nor any of their Attendants, shall be Arrested, from the time of their Election, untill ten dayes after the Dissolution of the Assembly, wherein he serves as a Burgess. Provided, that if the Assembly be Adjourn'd for above a moneth, the severall Burgesses shall ten dayes after that Session be liable to Arrests, and other Proceses; and if in the Interval of Sessions they be Arrested and prosecuted to Execution, and that served; the Execution shall be suspended ten dayes before the next Session of that Assembly, and continue so untill ten dayes after it, at which time the priviledge of Burgess shall cease and determine.

LXXXVIII.

No Order to contradict an Act.

BE it Enacted and Confirmed, That no Act of Court, or Proclamation, shall, upon any pretence whatsoever, enjoyn obedience thereunto, contrary to any Act of Assembly, until the Reversal of that Act by a succeeding Assembly.

LXXXIX.

Assemblies to enquire after the Breach of Laws.

WHereas several Laws have been, by divers Assemblies, made for the good of this Countrey; which, for want of due observation, have not produced the desired Effect: And whereas it is by this Assembly Enacted, that the Grand Jury of Inquests, should twice Annually make presentment of the breach of all Penal Laws, and that the Assembly should dispose of the Fines levied upon the several Offenders, for the use of those Counties wherein they accrued due: Be it Enacted, that for the future, the first day of every succeeding Assembly, shall be employed in receiving the said Presentments of the Grand Jury, & to enquire into the remissness of Juries and Courts, and how the Laws have been put in Execution, and disposing the Fines; that by that means the Laws may be restored to their due vigor, and Offenders be deterred from neglect or contempt, when they shall find, a severe account of their Observation is so diligently enquired into.

XC.

Publique Letters, how to be Conveyed.

WHereas the remoteness of divers places in the Countrey from James City, and the necessity of communicating divers businesses to the utmost limits of it, would, if Messengers were pressed purposely, put the Countrey to an Annual great Expence: For prevention thereof, Be it enacted, That all Letters superscribed for the use of his Majesty, or the Publique, shall be immediately conveyed from Plantation to Plantation, to the place and person they are directed to, under the penalty of Three hundred and fifty pounds of Tobacco, to each default; and if any person be put thereby to any extraordinary charge, the Court of each County is hereby authorized to judge thereof, and to levy payment for the same; the Supercriptions being signed by the Governour, some one of the *Quorum*, or the Colonel, Lieutenant Colonel, or Major of a Regiment: And where any person in the Family the said Letters come to, can write, such person is required to endorse the day and hour he received them, that the neglect or contempt of any person stopping them may be the better known, and be punished accordingly.

XCI.

Divulgers of false News.

WHereas many idle and busi-headed People do forge and divulge false rumors and reports to the great disturbance of the peace of His Royal Majestic's Lelge People in this Colony: Be it enacted, That what Person or Persons soever shall forge or divulge any such false Reports, tending to the trouble of the Country, he shall be by the next Justice of Peace sent for, and bound over to the next County-Court; where, if he produce not his Author, he shall be fined Two thousand pounds of Tobacco (or less, if the Court think fit to lessen it) and besides, give Bond for his Behaviour, if it appear to the Court, that he did maliciously publish, or invent it.

XCII.

Chirurgeons Accounts regulated.

WHereas the excessive and immoderate prices exacted by divers avaritious and griping Practitioners in Physick and Chirurgery, hath caused several hard-hearted Masters, swayed by profitable more than charitable respects, rather to expose a sick servant to a hazard of the recovery, then put themselves to the certain Charge of a vigorous, though unskillful Physician, whose demands for the most part exceed the Purchase of the Patient; many other poor people also being forced to give themselves over to a lingering Disease, rather then ruine themselves, by endeavouring to procure an uncertain Remedy: For redress thereof for the future, Be it enacted, that it shall be lawful for any Person or Persons conceiving the Account of the Physician or Chirurgeon unreasonable, to arrest the said Physician or Chirurgeon to the General or County-Court; where the Physician or Chirurgeon shall declare upon his Oath the true value, cost, and quantity of the Drugs administred: for which, the Court shall grant order against the Plaintiff with fifty per cent. advance, and such consideration for his care, visits, and attendance, as they shall judge he hath deserved; and if it shall appear by Evidence, that the said Physician or Chirurgeon hath neglected his Patient, while he was under cure, the Court shall censure him to pay so much as they in their discretion shall think reasonable.

XCVI.

XCIII.

Chirurgions Accounts pleadable after decease of the Party.

WHereas by Act of many Assemblies, no Accounts are pleadable against dead mens Estates, whereby many scruples have been made about the Accounts of Physicians and Chirurgions, who cannot possibly take Bill: Be it therefore enacted, That Physicians and Chirurgions Accounts shall be pleadable and recoverable, for means administered, and Pains taken, in the time of Sicknes, whereof the Party dies; and where the Patient recovers, Six Months after such recovery, and no longer.

XCIV.

Discounts to be made in Courts.

BE it enacted, for the avoiding many causeless Suits in Law, That where any Suit shall be commenced in any Court for a Debt, that if the Defendant have either Bill, Bond, or Account of the Plaintiff's, wherein he proves the Plaintiff Debtor, such Debt of the Plaintiff shall be discounted out of the Debt he claimeth of the Defendant; and judgment shall be given for no more than the balance of the Debt will amount to, Consideration being alwayes made of the times their several Debts have been due, and accordingly allowance made for the time. And because it many times happens, that the Defendants in such cases, do procure Bill or Accounts of the Plaintiff's, from other men, which he perhaps can discount with those to whom he passed such Specialty or Account: It is therefore enacted, That no Bill or Account being assigned over, shall by the Assignee be pleadable against the Debtor in such Bill or Account, unless the Assignee can prove, that he gave the Debtor notice before his Acceptance of the Assignment, and that the Debtor at that time pretended to no discount against it.

XCV.

Accounts against dead Mens Estates.

WHereas, too sad experience hath shewed, that Accounts against the Estates of Persons deceased, have often unjustly devoured the Estates, and brought the Wives and Children to po-

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erty and mine; And whereas as well the Laws of England as of this Country, permit not any thing to be pleadable against any Person that cannot wage his Law; which Executors and Administrators are utterly incapable of: Be it therefore enacted, That no Book-Debts, or Accounts, shall be henceforth pleadable against the Estate of any Person deceased, nor against any living, if the said Person shall upon his Oath, deny the same to be due; unless they be such Accounts, as by particular Acts of the Assembly, as Officers Fees, Levies, and Chirurgicals Accounts, are pleadable; neither shall any man be put to his Oath upon an Ordinary-Keeper's Account; but the said Ordinary-Keeper shall take the hand of any Person (calling for any Drink or Provision) to his Book, or else his Bill; or otherwise his Debt shall not be pleadable.

XCVI.

Ballancing Accounts of Deceased Persons.

AND whereas divers men being indebted to others upon account, may be induced to deliver Goods to them, or their Assigns in ballance, yet take no Receipt; which Account, upon the Death of either Party may be brought by his Executors or Administrators, against the Survivor, of which he cannot, upon his Oath, deny the Receipt; yet that Account, though justly ballanced before, is often recovered by this Act prohibiting Accounts against dead mens Estates, yet leaving Liberty to their Executors or Administrators, to sue for an Account due to the Estate of the Person Deceased: Be it therefore enacted, That accounts against a dead mans Estate, being sufficiently proved, shall be admitted in discount of an Account due to such dead mans Estate; but if the Account brought against the Estate, exceed that due to the Estate, the Survivor for the Overplus shall be dismissed without day: Provided also, that where the Party charged as Debtor to any one, shall refuse upon his Oath to deny the Account brought against him (except an Ordinary-Keeper's, which it is impossible to keep in memory, or any part thereof) the Court shall take the Account to be due, as by Confession; and shall give Judgment for so much thereof as he shall not deny as aforesaid.

XCVII.

Ordinary-Keepers, how to sell.

WHEREAS continual Complaints are made of the Exaction of Ordinary-Keepers, and Others, in the Rate and Measures of

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of Strong-Drink, by them retailed and sold: Be it enacted, That no Person, after the first of *March*, One thousand six hundred sixty and three, shall sell or vend by retail, any Wine, Beer, or other Strong-Drink, of what sort soever, by any Measures, but English sealed Measures, of Pints, Quarts, Pottles or Gallons; and that every one, that now doth, or hereafter shall keep any Ordinary, shall by the said First of *March*, 1663. provide such Measures to sell by in his House, and, in case he fail, shall be put down from keeping any Ordinary, and fined Five thousand pounds of Tobacco, to the use of the Publick: Provided alwayes, that it shall be lawful for them, to sell English Strong-Waters coming over in casks, by the Bottle, in the same Bottles they bought them.

And for preventing many Disorders and Riots in Ordinaries, and other places, where Drink is retailed; Be it enacted, That no Person or Persons whatsoever, shall in their Houses retail any Drink, but such, as shall obtain a Licence from the Commissioners of the County, where he lives, signed by the first in Commission of that Court, by giving Bond, according to the Laws of *England*; and further obliging himself to sell at the Rates, set by the Commissioners; and to pay annually, to the Governour, Three hundred and fifty pounds of Tobacco and Cask, for his Licence.

XCVIII.

Servants, how long to serve.

WHereas the Thirteenth Act, 1659. doth enact That all Persons, brought as Servants into this County, of what Christian Nation soever they be, should serve no longer than our own Nation, which is five years, if above sixteen years of Age; if under, until One and Twenty, as by the Thirtieth Act of the said Assembly, appears: and, in regard, the said Thirteenth Act doth, contrary to Law, look backward, and set free several Servants, Aliens purchased, upon a former Act of Assembly, made the Fourth of 1654. Be it therefore enacted, That all Aliens, and Others coming in, while that Act, and the others are in force, shall serve according to those Acts; and that for the future, all the aforesaid Acts shall be repealed: and all Servants hereafter coming in without Indenture, shall serve Five Years, if above Sixteen Years of Age; and all under that Age, shall serve until they be Four and Twenty Years old, that being the time limited by the Laws of *England*; and that the several Courts, at the request of the Master, make inspection, and judge of their Age.

XCIX.

Against Secret Marriage.

WHereas much loss and detriment doth arise to divers Masters of Families, by the secret Marriage of Servants, the said Servants through that occasion neglecting their works, and often purloining their Master's Goods and Provisions. Be it therefore Enacted, That no Minister either publish the Banns, or Celebrate the Contract of Marriage between any Servants, unless he have from both their Masters a Certificate, that it is done with their consent; and the Minister doing otherwise, shall be fined ten thousand Pounds of Tobacco, and the said Servants both Man and Woman, that shall by any indirect means procure themselves to be married without consent of his and her Master, shall for such their offence, each of them serve their respective Masters one whole year after the time of service by Indenture is expired. And, if any person being free shall clandestinely marry with a Servant, as aforesaid, he or she so marrying, shall pay to the Master of the Servant, Fifteen hundred pounds of Tobacco, or a years Service; and the Servant so being married, shall abide with his or her Master, the time by Indenture, or Custom, and a year after as aforesaid.

C.

Against Fornication.

FOr restraint of the filthy sin of Fornication; Be it Enacted, That what Man or Woman soever shall commit Fornication, he and she so offending upon proof thereof by Confession or Evidence, shall pay each of them five hundred Pounds of Tobacco, five to the use of the Parish or Parishes they dwell in, and be bound to their good behaviour, and be imprisoned till they find security to be bound with them; and if they, or either of them, committing Fornication, as aforesaid, be Servants, then the Master of such Servant so offending, shall pay the said Five hundred pounds of Tobacco, as aforesaid, for which the said Servant shall serve half a year, after the time by Indenture, or Custom, is expired; and if the Master shall refuse to pay the Fine, then the Servant to be whipped: And if it happen a Bastard Child to be gotten in such Fornication; then the Woman, if a Servant, in regard of the loss and trouble her Master sustains by her having a Bastard, shall serve two years, after her time by Indenture is expired, or pay two Thousand pounds of Tobacco to her Master; be-

sides the fine or punishment for committing the offence, and the reputed Father to put in security to keep the Child, and save the Parish harmless.

C I.

Hired Servants.

WHereas divers persons, that by Indenture, Custom, or Assize-Contracts for Wages, being Servants to several men, do many times run away to Plantations far Remote, and there being unknown, procure Entertainment with others for wages or shares, to the great damage, and sometimes utter undoing of their true Masters, and also of those that ignorantly entertain them by paying the fine: For prevention whereof, for the future, and for the better discovery of such Runaways; Be it Enacted, That all Servants at the Expiration of their time, shall with their Master, or a sufficient Testimonial from him, go to the Court in that County where he served, and there enter his Freedom, and take Certificate thereof from the Clerk of the said Court, which Certificate shall be sufficient Warrant for any person to entertain him into his Service. And whoever, after his first time by Indenture is expired and Certificate thereof taken out as aforesaid, shall again upon any terms become Servant to another; the Master then hiring the said Servant, shall take his Certificate of Freedom, and keep it until the time contracted for, be expired; and whoever shall entertain, or harbour any Servant, or hired Free-man running away from his Masters service, and not having a Certificate, as aforesaid, shall pay to the Master of the said Servant Thirty pounds of Tobacco per day and night, for all the time they shall harbour, or entertain them. Provided, That if such Run-away Servant shall forge a Certificate, or steal the true one from the Master he is hired to, and by that means procure himself Entertainment; the person entertaining him shall be free from the Fine, but the Servant stealing or forging the Certificate, shall be punished for his forgery, by standing in the Pillory two hours upon a Court-day, and if any person coming free into the Countrey, shall by any Contract agree with one person, and, before the time agreed for be accomplished, shall depart to another, he shall first perform the Tenor of his Contract first made, and pay the apparent damages, that shall arise by his breach of Covenant, and shall, after that satisfied, be liable to the payment of what damages any other Contractee with him shall recover of him by Law. And in regard the Certificates of Freedom may be worn out, and lost, and by those means now often be required: It is further Enacted, That every Clerk upon such pretence, granting a new certificate shall

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mention in that the loss of the first, and that for that cause this second was issued.

CII.

Run-aways.

WHereas there are divers loitering Run-aways in this Country, who very often absent themselves from their Masters-Service, and sometimes in a long time cannot be found; the loss of their time, and the charge of the seeking them, often exceeding the value of their labour: Be it therefore Enacted, That all Run-aways, that shall absent themselves from their said Masters Service, shall be lyable to make satisfaction by service, after the times by Custom or Indenture are expired, (*viz.*) double their time of Service so neglected: and if the time of their Running away was in the Cropp, and the charge of recovering them extraordinary, the Court shall adjudge a longer time of service, proportionable to the damage the Master shall make appear he hath sustained. And, because the adjudging the time they should serve, is often referred until the time by Indenture is expired, when the proof of what is due is very uncertain: Be it Enacted, That the Master of any Run-away that intends to take the benefit of this Act, shall assoon as he hath recovered him, carry him to the next Commissioner, and there declare and prove the time of his absence, and the charge he hath been at in his Recovery, which Commissioner thereupon shall grant his Certificate, and the Court on that Certificate pass Judgment, for the time he shall serve for his absence.

And in case any *English* Servant shall run away in company of any *Negro's*, who are incapable of making satisfaction by addition of time: It is Enacted, That the *English*, so running away in the company with them, shall at any time of service to their own Masters expired serve the Masters of the said *Negro's* for their absence so long as they should have done by this Act, if they had not been slaves, every Christian in company serving his proportion; and if the *Negro's* be lost or dye in such time of their being run away, the Christian Servants in Company with them shall by proportion among them either pay Four Thousand five hundred pounds of Tobacco, and Cask, or four years service for every *Negro* so lost or dead.

CIII.

Cruelty of Masters prohibited.

WHereas the Barbarous usage of some Servants by cruel Masters brings so much scandal and Infamy to the Country in general, that people who would willingly adventure themselves hither, are, through fear thereof, diverted; and by that means, the supplies of particular men, and the well seating of his Majesty's Countrey very much obstructed: Be it therefore Enacted, that every Master shall provide for his Servants competent diet, clothing, and lodging, and that he shall not exceed the bounds of moderation, in correcting them beyond the merit of their offences; and that it shall be lawful for any Servant, giving notice to their Masters (having just cause of complaint against them, for harsh and bad usage, or else for want of Diet or convenient Necessaries) to repair to the next Commissioner, to make his or their complaint; and if the said Commissioner shall find by just proof, that the said Servant's cause of complaint is just, the said Commissioner is hereby required to give Order for the warning of such Master to the next County-Court, where the matter in difference shall be determined, and the Servant have remedy for his grievance.

CIV.

Against unruly Servants.

WHereas the audacious unruliness of many stubborn and incorrigible Servants, resisting their Masters and Overseers, hath brought many mischief and losses to divers Inhabitants of this Countrey: Be it Enacted and Ordained, That the Servant that shall lay violent hands on his or her Master, Mistress, or Overseer, and be convicted thereof by Confession or Evidence of his Fellow-servant, or otherwise, before any Court in this Countrey; the same Court is hereby required and authorized, to Order such Servant to serve his or her Master, or Mistress, or their Assignes, one year after his or her time by Indenture or custom, is expired. Be it Enacted, That no person or persons whatsoever, for any offence committed, shall be adjudged to serve the Countrey as Colony-Servants.

CV. *Against*

CV.

Against Trading with Servants.

WHereas divers ill-disposed persons do secretly and covertly Truck and Trade with other mens Servants and Apprentices, who (to the great injury of their Masters) are thereby induced and encouraged to steal, purloin, and imbezel their Master's goods: Be it therefore Enacted, That what person or persons soever shall buy, sell, trade, or truck, with any Servant for any Commodity whatsoever, without licence or consent of the said Servant's Master, he or they so offending against the premises, shall suffer one Moneths Imprisonment, without bail or main-prize; give Bond, with Security, for his good Behaviour; and also shall forfeit to the Master of the said Servant, four times the value of the things so bought, sold, trucked, or traded for.

CVI.

No Tobacco to be planted after the tenth of July.

WHereas it hath been taken into serious Consideration, that the improvement of our only Commodity, Tobacco, can no wayes be effected, but by lessening the quantity, and amending the quality; and further, that all stints will prove cleerly inconsistent with the Peecing of the Countrey, while *Mary-land* remains a distinct Government; unless of such a nature as may produce both the aforesaid effects, without abridgment of any mans endeavours, or confining him to any set number of Plants: For which cause, the Assembly hath Enacted, That no Tobacco be planted after the Tenth of July; and that whosoever shall directly, or indirectly plant or replant, or cause to be planted or replanted, any Tobacco after the said Tenth of July, shall forfeit Ten thousand pounds of Tobacco, to the use of the Publique.

CVII.

No Seconds or Slips.

AND be it further Enacted, That what person or persons soever shall tend, or suffer, or cause to be tended, any second Tops or Slips, shall forfeit Ten thousand pounds of Tobacco to the Publique.

Be it further Enacted, That what person or persons soever, shall save, pack, or sell, or send away, any ground-leaves, which are hereby required to be totally suppressed, shall forfeit for every Hogsheaf, proved to have the quantity of Five pounds of ground-leaf Tobacco in it, Five thousand pounds of Tobacco, to the use of the Publique. And it is further Enacted, That the Grand Jury shall take particular care of the Observation of this Act, and shall make due presentment to the *County-Courts*, of any such as shall Plant or Tend any Tobacco contrary to the tenor hereof.

CVIII.

Improvement of Staple-Commodities.

W^Hereas the uncertain value of Tobacco, the Unstapleness of the Commodity, and the probability of its Planting in other places, threaten this Countrey with the danger of an unavoydable Ruine, which must in time fall upon it, by the increase of the makers of it among our selves (who have already so glutted all Markets, that great quantities are yearly left in the Countrey, and that which is sent out sold at so mean and inconsiderable a Rate, as neither Merchant nor Planter can well subsist by) unless some other course be speedily taken, for improvement of such other Commodities as the Countrey will produce, and making as many of them, as we can, into Manufactures, and giving encouragement to all persons of what ability soever to attempt it; which the former Acts for encouragement to make Staple-Commodities, have been defective in, by only proposing Rewards to great quantities of every Commodity made, which, who ever goes about, must, if he fail, be Ruined; or, if he make the quantity proposed, will have no need of the Grant, which is better to be suited proportionably to the meanest quantity: Be it therefore Enacted, That the Assembly, this present year, send into *England* for a considerable quantity of Flax-seed, to be distributed into the several Counties, and delivered to certain persons, who may sell it out to several Inhabitants, and the produce thereof be paid the year following, with the Levy; and the Countrey stock, by that means made good according to the Fifth Act of the Assembly, 1661. to make their proportions of Flax; and who ever will Spin the Flax, and cause the Yarn to be Weaved into Cloth of a yard wide, shall for every Yard of Cloth so Woven of Yarn made of Flax grown in the Countrey, have Three pounds of Tobacco: And for every yard of Woollen Cloth made of yarn here spun in the Country, Five pounds of Tobacco; which upon produce of a Certificate from some Justice of Peace in the County, that he hath seen the same in the Loom, and that to his knowledg it was really made in the Countrey, as aforesaid, shall

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shall upon producing the same to the Governour and Council, be paid so much in the Publique Levy in the same County where they dwell.

CIX.

Act for Mulberry-trees.

WHereas by experience, Silk will be the most profitable Commodity for the Countrey, if well managed; and whereas the greatest conducement thereunto required, is provision of Mulberry-trees: Be it Enacted and Confirmed, by this present Grand Assembly. That every Proprietor of Land, within the Colony of *Virginia*, shall for every Hundred Acres of Land, holden in Fee, plant upon the said Land Ten Mulberry-trees at twelve foot distance each from other, and secure them by weeding, and a sufficient Fence from Cattel and Horses, &c. between this and the last of *December 1663*. And for every Tree that shall be wanting, and untended, in manner aforesaid, of the said proportion at the said last of *December, 1663*. he the said Proprietour that shall be so Delinquent, shall pay Twenty pound of Tobacco to the Publique. Provided, that this Act do not extend to Orphans, until the expiration of Five years after their full age; and then, if Delinquent, to be liable, as aforesaid. And no man planting more then his number, shall excuse any that hath planted lesse. Provided also, that this Act extend not to such Proprietours as are not in Actual possession. And because his Majesty hath taken particular notice of the great folly and negligence of the Countrey in omitting the Propagation of so Noble and Staple a Commodity, It is Enacted, That the Grand Jury do strictly enquire into the breach of this Act, and make Presentment thereof, that the Offenders may accordingly be punished. And be it further Enacted, That for the encouragement of all persons that shall endeavour to make Silk, there shall be allowed, in the Publique Levy, to any one, for every pound of wound Silk he shall make, Fifty pounds of Tobacco to be raised in the Publique Levy, and paid in the County or Counties where they dwell that make it.

CX.

Encouragement to build Vessels.

FOR encouragement of building Vessels in this Countrey, and the promoting of Trade; Be it Enacted, That whoever shall build a Vessel of any Burthen, decked and fited to go to Sea, shall

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for every Tun-burthen the said Vessel shall contain, receive, upon proof of her being so built, Fifty pounds of Tobaceo, out of the Publique Levy.

Whereas Colonel *Edmund Scarborough* hath, to his particular great Charge, but to the infinite good of the Countrey, erected a Salt-work, for which he hath received deserved thanks, the last Assembly; this Assembly, for his greater encouragement, hath thought fit to grant him the use of the Money raised this year out of the two shillings per hundred (in *Northampton-County*) with condition that he make re-payment of the same, to those the Assembly shall allot it, the next year, in Salt at two shillings six pence per Bulhel, and Soap at

And be it further Enacted, That after the first of *September 1663.* no Master of Ship, Barque or Vessel; or any other person, Merchant or Trader; shall bring in any Salt into the County of *Northampton*, under the penalty of Confiscating his Ship, Barque or Vessel, and Goods, to the end that he and others may be encouraged in their industrious endeavours, to promote the good of the Countrey.

CXI.

Tan-houses to be erected.

BE it also Enacted, That according to the first Act of Assembly 1660. there be erected in each County, at the charge of the County, one or more Tan-houses, and that they provide Tanners, Curriers, and Shoemakers, to Tan, Curry, and make the Hides of the Country into Leather and Shoes, and that the persons intrusted with the oversight of the Workmen, and the managing the Trade, do allow to the Inhabitants of the County, for every dry hide they bring, at the rate of Two pounds of Tobacco per pound; and sell their Shoes for Thirty pounds of Tobacco for plain shoes; and Thirty five pounds of Tobacco for Wooden-heels, and French-fals of the six largest sizes; and Twenty pounds of Tobacco a pair for the smallest shoes.

CXII.

Two Acres of Corn for each Tithable.

BE it hereby Enacted, That all persons within this Colony, shall plant or tend, for every Tithable person tending a Crop in their Family, two Acres of Corn or Pulse, under the penalty of Five hundred pounds of Tobacco; for every Acre neglected, as aforesaid;

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to be paid by the Delinquent, and to be levied by the Sheriff for the Counties use; and the Grand Jury, in their several limits, to look strictly after the breach of this Act. And, for encouragement for men to sow *English* Wheat, which may be a Staple-Commodity to vent out of the Countrey, It is further Enacted, That the sowing of one Acre of Wheat, shall excuse the planting of the two Acres of *Indian* Corn, or other Corn or Pulse, as this Act enjoyns.

CXIII.

Stray Horses, &c.

FOR remedy of the great abuse, and wrong done, in taking up of stray Horses, Cattel, and Boats lost, not only in concealing them, but in using and employing them to the hurt and damage of the Owners: Be it Enacted, by this present Grand Assembly, that every person or persons that shall take up and keep any stray Horses, Cattel, or Boats, shall cause the said Horses and Cattel with the mark, stature, and colour, and the said Boat with her proportion, and what was found in her, to be cryed publicly in all the Churches and Chappels in the County, within one moneth after the taking them up; and in the mean time, securely to lay up the said Boat; and if no owner appear, upon this publique notice given, then to publish the same, and set it up in Writing, at the next *County-Court*, where if no owner appear, then it shall be lawful for him to make use of the said Boat, untill the owner do appear, who shall allow him, for his pains, One hundred pounds of Tobacco.

CXIV.

Free Trade.

BE it Enacted, That Free Trade be allowed to all the Inhabitants of this Countrey, to buy and sell at their best advantage; and that all Acts concerning Ingrossing, be, from henceforth, repealed and made void. Provided alwayes, That no person or persons, shall have any Commerce or Trade with any *Indians*, for Beaver, Otter, or any other Furs, except those Commissionated by the Governour,

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CXV.

Exportation of Hides.

WHereas the Exportation of Hides, Wooll, and Iron, is generally conceived to be much prejudicial to the Commonwealth, and good of this Colony: Be it therefore Enacted, by the authority of this present Grand Assembly, that what person or persons soever, shall Export out of this Countrey, either Wooll, Hides, or Iron, shall, for every of their offences in so doing, pay as followeth (*viz.*) for every Hide, so Exported, the sum of One thousand pounds of Tobacco; and for every pound of Iron, ten pounds of Tobacco; and for every pound of Wooll, fifty pounds of Tobacco; the one half of which said payments and forfeitures shall be paid to the Informer, and the other half to the Publique.

CXVI.

Exportation of Money.

BE it hereby Enacted, by this Grand Assembly, that no false Money shall pass for currant in this Countrey; but pieces of Eight, that are good and of silver, shall pass for Five shillings currant Money, upon penalty of twenty shillings to be paid by the refusers of them. And that none shall Export Money out of this Country, above the sum of Forty shillings; if any shall exceed the same sum, to forfeit double thereof.

CXVII.

Size of Virginia Hogsheads.

IT is Enacted, upon the complaint of divers Masters and Merchants of Ships, against the incertainty and extraordinary size of Cask, which hath been very much prejudicial to them, that a certain size of all Tobacco-Cask of Virginia Hogsheads shall be as followeth (*viz.*) Forty three inches in length, and the head twenty six inches wide, with the bouge proportionable; and whoever shall make Cask of a greater size, shall pay, upon proof made to any Court (if he be a Freeman, otherwise his Master or Mistres that employes him) Three thousand pounds of Tobacco, the one half to the Informer, the other half to the County where the Cask is made; and if any Cask shall be made of Timber not seasoned, then such Cask to be burnt.

CXVIII. *Against*

CXVIII.

Against private taking away Boats.

FOrasmuch as divers persons suffer great damage by private and concealed taking away of Boats and *Canoes*, without licence from the owners thereof: It is enacted and confirmed, by the Authority aforesaid, That the Commissioners of each *County-Court*, shall be hereby impowred (if required) to order and give satisfaction from the party so trespassing, to those injured by want of his or their Boat, Boats, or *Canoes*, Five hundred pounds of Tobacco penalty to the owner, and what damage the Boat sustains.

CXIX.

Against Shooting.

WHereas it is much to be doubted, the Common-Enemy, the *Indians*, if opportunity serve, will suddenly Invade this Countrey, and bring it to a total Subjection of the same: And whereas the only means for the discovery of their Plots is by Alarums, of which no certainty can be had, in respect of the frequent shooting of Guns in Drinkings, whereby they proclaim and justify that beastly Vice: Be it therefore Enacted, That what person or persons soever, shall, after publication hereof, shoot any Guns at Drinkings or Marriages, (Burials excepted) such person or persons so offending shall forfeit Two hundred pounds of Tobacco, to the Publique, to be levied by distress in case of refusal.

CXX.

Supply of Ammunition.

BE it Enacted, That a Provident supply be made of Guns, Powder, and Shot, to our own people; and this strictly to be looked to by the Officers of the Militia, (*viz.*) that every man able to bear Arms, have in his house a fixed Gun, two pounds of Powder, and eight pounds of Shot, at least, which are to be provided by every man for his Family, before the last of *March* next; and whosoever shall fail in making such provision, to be fined Fifty pounds of Tobacco, to be laid out by the *County-Courts* for a Common-stock of Ammunition for the County; the inquiry referred to the Grand Jury.

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CXXI. *Against*

CXVI.

Against Exacting Millers.

Whereas by a second Act of a Grand Assembly, Anno 1645. it was Ordered and Established, for the reforming the great abuse of Millers, in exacting excessive and illegal Toll; That no person or persons using or occupying any Mill, should take or receive for the grinding of any Grain, or exchanging it for Meal, above the first part thereof for Toll: which Act hath not taken such effect as was intended thereby; in respect, as is conceived, neither penalty was imposed thereon upon the Offender, nor the execution thereof was given in direction to any particular Officer. It is therefore thought fit to enlarge the said Act, and by vertue thereof to require all Millers, or owners of Mills, to provide by the five and twentieth day of June next come twelve Moneth, Stilliards, or statute-weights and scales, by which they are to receive in, and deliver out all Grain: and that they do sufficiently grinde & exchange the said Grain, so brought, upon the penalty (in case they do exact, beyond the said proportion, for grinding or exchanging, or in case of default of such Weights or Scales, or for not sufficiently grinding (of the sum of One thousand pounds of Tobacco, and that the Grand Jury enquire thereof.

CXXII.

Against Exportation of English Goods.

Whereas the necessities of this Countrey are relieved, chiefly by the Importation of English Goods, and that relief much obstructed by many that bring in unnecessary Commodities, and make sale thereof for Tobacco, which they again truck for substantial Commodities, as Clothing, and the like; and by that means leave the Countrey destitute of its own supplies: It is hereby Enacted, That what person or persons soever, shall, after the first of June next, export out of the Colony, any English Goods (not by him formerly exported) shall, upon discovery, forfeit such Goods, and be fined the value, the one half to the Informer, and the other to the Publique.

CXXIII.

No Mares or Sheep to be transported.

IT is also Enacted, That no Mares or Sheep be transported out of the Country, upon treble the value, to be forfeited by the Offender, and by him paid, one half to the Informer, and the other to half the Publique.

CXXIV.

Against selling of Rum, but in places appointed.

WHEREAS the excessive abuse of Rum, hath by experience been found to bring Diseases, and Death to divers people, and the purchasing thereof made by the exporting and unfurnishing the Country of its own supplies and Staple-Commodities: It is Enacted, That what Vessel soever shall after the first of March, 1663, (except such as belong wholly to Inhabitants of this Country) bring in them any Rum, or *Pavele-Sugar*, the said Vessels, so bringing it in, shall not unload or sell the same, at any place or places, but such as are by Act of Assembly appointed Ports for the vent of the said Commodities, and shall bring the same on shore, and enter the quantity, and pay for every Gallon of Rum, six pence Custom; and for every pound of *Pavele-Sugar*, one penny; before they shall be permitted to sell or dispose of any part thereof.

CXXV.

Against stealing of Hogs.

WHEREAS the stealing and killing of Hogs, is a crime usually committed, and seldom or never Detected or Prosecuted, in this Colony: Be it therefore Enacted, for the better prevention whereof, That whosoever shall steal, or unlawfully kill, any Hog which is not his own; and the said fact being proved, by sufficient Evidence; he or they so offending, shall pay to the owner of the said Hog, One thousand pounds of Tobacco, and One thousand pounds of Tobacco to the Informer; and in case of Inability to pay and satisfy the said sums, the person so offending shall serve two years (*viz.*) one year to the right owner of the said Hog, and the other to the Informer. And if any person be found to bring home

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any Hog or Hogs so killed without their Ears, shall be adjudged a Hog-stealer, and to be proceeded against accordingly. And that such persons as shall receive such Hogs into their Houses, and not immediately discover the same to the next Commissioner, then such Receiver shall be proceeded against, as if he had been an Actor in the Trespass; and in case the owner of the Hog inform, he to have both the Fines.

CXXVI.

Masters of Ships to provide four Moneths Provision.

BE it Enacted, That all Masters of Ships shall be obliged hereby to provide four Months allowance of Victuals for Passengers at their setting forth from the *Downs*, or other Ports of *England*, and to give the Passengers sufficient allowance of Dyer all the Voyage; and Commanders of Ships respectively to take care, that poor Servants do not want bedding in the Voyage: in which particulars aforesaid, if any shall offend; they shall be lyable to grievous censure here; according to the merit of the offence.

CXXVII.

Concerning Passes.

BE it also Enacted & Confirmed, That no Master of any Ship, Vessel, Boat, or Barque, shall Transport any person or persons out of this Colony, except the said person or persons produce a Pass under the hand of the Secretary or such whom he shall depute or appoint, upon the penalty to pay all such debts as any such person shall stand in debted to any person within this Colony at his or their departure, and pay a Thousand Pounds of Tobacco to the Secretary, for his contempt. And it is further Enacted, That before any such Pass shall be signed, to any person, he or they shall bring a Certificate from the Monthly Court, where he or they reside, that he hath set up his Name upon a Court-day, ten days at least before his departure at the County-Court where he resides; or otherwise, shall put in sufficient security for the payment of all Debts that are due or owing from them to any person, within the Countrey, or his Name to be published, and set up at the Church-dore two Sundayes in each Parish in the County where it is presumed, all persons will be; and the Readers Testimonial to the Clerk, shall be sufficient Warrant for him to grant a Certificate. And the Secretary and security after a year and a day to be discharged.

CXXVIII.

CXXVIII

Imposition of two Shillings per Hogs-head.

THis present Grand Assembly of *Virginia*, taking into serious Consideration, the burthenfome and unequal way of laying Taxes by the Pole, and how they may with most honor, and ease, support the Government in well paying his Majesties Officers; and as means perhaps of introducing money; and an Encouragement to men to produce other useful and beneficial commodities; have thought fit to impose two shillings *per* Hogshead, upon every Hogshead of Tobacco, that shall be shipped on board of any Ship or other Vessel within *Virginia* to be exported; and the Collectors of the said Imposition to dispose of no part thereof, but by Order of the Grand Assembly only. Be it therefore Ordained and Enacted by this present Grand Assembly, and by the Authority thereof, And it is hereby Enacted, That the Master and Masters of all and every Ship and Vessel coming to Trade in *Virginia*, shall upon Demand made by the Collector or Collectors, who shall by Order of Assembly, be impowred to receive the said Imposition from every Ship or Vessel, enter into security to pay such Collector or Collectors two shillings for every Hogshead of Tobacco, that shall upon any Account whatsoever be shipped on board his Ship, or Vessel, to be exported; the said payment either to be made in Money, Bills of Exchange, or Goods at thirty *per cent.* advance, upon the price of such Goods at the first penny; and all fraughters to be accomptable to the said Masters for the Tobacco by them shipped.

Be it also Ordained and Enacted by the Authority aforesaid, for the Discovery of the Number of Hogsheads each Ship, or Vessel contains, that the Master of such Ship or Vessel shall deliver his Boat-Swains Book to the perusal of the Collector; And make Oath of the truth of the same so far as he knoweth. And, that the Mate's Boat-Swain or any other Sea-man be sworn, if the Collectors see cause, to discover the truth of the said fraught.

And if any Master of Ship, or Vessel, shall wittingly, or willingly conceal, any part of his fraught from the Collector, and shall thereof be lawfully convicted, then the said Master shall forfeit for every such offence the sum of One hundred pounds sterling; one Moiety thereof to go to the Informer, (and the other to the Publique) and be recovered by Action of Debt, Bill, or Plaint, in *General-Court*, or *County-Court*, by vertue of this Act, against which no Elsoyn, Wager of Law, or Protection, to be allowed to any person so offending. Be it further Enacted, and Ordained, That if any Masters shall pass Bills of Exchange, for the said Imposition, that then the Collectors

The Laws of Virginia.

are hereby required to take sufficient caution of the said Master for the true and good payment of the same. It is hereby also Ordained, and Enacted, That the Collectors of the several Rivers and Places in *Virginia*, for the receiving of the said two shillings *per* Hogthead, be appointed and confirmed by this present Grand Assembly, and give sufficient security and caution for the due execution of the trust hereby reposed in them, and to be accountable to the next Assembly, according to the tenor of this Act. And the said Collectors to be allowed ten *per cent*. Salary, for collecting the said Imposition. Provided alwayes, and it is hereby Ordained and Enacted, by the Authority aforesaid, That this present Act of Assembly be, and remain in force.

CXXIX.

Every Inhabitant in Northumberland, and Westmerland Counties, to give an Account how many Hogsheds of Tobacco they made, and to whom sold.

WHereas the Imposition of Two shillings *per* Hogthead cannot conveniently be levied upon Masters of Ships, that come into *Potomake* River, by reason of their Anchoring in the Dominions of the Lord *Baltimore*, whence they send their Sloopes and Boats to fetch the Tobacco made in this Countrey without paying the said Imposition: Be it therefore Enacted, That every Planter inhabiting in the Counties of *Northumberland*, and *Westmerland*, shall certificate into the Collector's Office, or unto his Deputies, the Number of Hogsheds of Tobacco made by him and his Family, and to whom they are sold, and shall not suffer any of the said Hogsheds of Tobacco, to be carried out of his House until he receive Certificate from the said Collector, that the Imposition of the said Tobacco is paid. And if any Planter shall contrary to this Act suffer any of his Tobacco to be carried aboard any Ship, Boat or Sloop, without such Certificate, then the said Planter to be fined Twenty shillings for every Hogthead so carried away without Certificate as aforesaid.

Whereas the like inconveniencies are incident to *Northampton* County, and lower *Norfolk*, in recovering the Impositions of Two and Ten shillings *per* Hogthead, as to the River of *Potomake*, by reason of the Transportation of much of the Tobacco made in those places in Sloops to *Mary-land*. Be it Enacted, That the Provisional Act made the last Assembly, for payment of those duties in *Potomake* River extend and be in force in the said Counties of *Lower-Norfolk*, and *Northampton*, and that the Collectors appoint certain persons to take Account of the Planters, according to the Tenor of this Act.

CXXX. P. 7.

CXXX.

Payment of Fort-Duties in Accomack, &c.

WHereas there is an Act of the last Assembly providing for the securing of the payment of the Two shillings *per* Hogshead due to the Countrey, but no Provision made therein for the securing the payment of Fort-Duties of *Potomack, Accomack, and Lyn-bowen*, from whence they fetch their Tobacco in Sloopes: Be it Enacted, That the said Act shall extend, as well to cause the Planters loading it to reserve and make payment of three pence *per* Hogshead for Fort-Duties of the said Tobacco, as for the payment of the Two shillings *per* Hogshead.

CXXXI.

Ten Shillings per Hogshead.

WHereas the prudence of all Nations hath provided for the defraying the Publique necessary charges of the Countrey, rather by laying an Imposition upon the Adventurers for the Staple-Commodities of the Countrey, by the Exportation of which the great advantage accrews, than by Taxing the persons of the Inhabitants; this present Grand Assembly endeavouring, as much as in them lies, to ease the burthen of the people, and taking into consideration, the great benefit, that accrews to other Countreys by the Customs arising from our Commodity Tobacco; and that *Virginia*, whose particular Staple it is, hath from it, nor from the Adventurers hither, no Publique Advantage: We have thought it necessary and convenient, and accordingly have Enacted and confirmed, that all Masters, Merchants of Ships and Marriners trading to *Virginia*, and not bound by Charter-Party to return and discharge in any of the *English* Dominions in *Europe*, shall pay for every Hogshead of Tobacco, they shall load aboard any Ship, Barque, or other Vessel arriving here, after the first of *August* next, and not bound as aforesaid, ten shillings sterling, either in Money, or good Bills of Exchange, with good caution, or in good valuable Commodities at Twenty five *per cent.* advance. Provided alwayes, That all Adventurers, Inhabitants of this Countrey, trading in bottoms belonging to *Virginia* Owners; shall be free from the said Imposition: It tending to the Advancement of Trade here, the Encouragements of the Inhabitants to purchase Vessels, and of Marriners to make this their place of Residence.

CXXXII.

Castle-Duties to be paid.

WHereas the Castle-Duties granted by his Majesty to Colonel *Francis Morrison*, Captain of the Fort at *Point-Comfere* are rendered of no value by the charge of Boat and Hands going to Collect them, and the inconsiderableness of the Commodities they are paid in, being commonly the refuse of their Cargoe; Be it therefore Enacted, That all Masters of Ships, and other Vessels, being thereunto required by the Officer appointed by the said Colonel *Morrison*, shall give in a true burthen of their Ships, or Vessels: and the lists of their Passengers, at such convenient places, and to such persons as the said Colonel *Morrison*, shall in each River appoint, upon Oath to be Administred by his said Collector or Officer, if a Commissioner; or else by any one or two Commissioners. And if any Master shall make false Entry either of his burthen or list of Passengers, then he shall, upon proof thereof made, pay treble duties for the number of passengers or quantity of Tuns concealed, the same to be recovered out of the Estate of the Master so offending. And the like penalty upon all such Masters as shall without coming into harbour fetch away their loading in Sloops of Boats. And what Master soever shall not pay his Duties in kind, being half a pound of Powder, and three pounds of leaden shot, *per Tun*, and six pence *per Poll* for every person imported, not being a Marriner, that then he shall pay in lieu thereof one shilling *per Tun*, and six pence *per Poll* either in Money or Goods, as they cost at the first penny. And that the Collectors thereof transmit the said Entries of Ships and Passengers under the hand of the said Masters to the said Colonel *Morrison* to be by him Recorded in his Fort-Book, as formerly hath been accustomed.

CXXXIII.

Ships to come up to James-City.

WHereas the Kings Majesties frequent Instructions hath commanded that all Masters of Ships arriving in this Countrey should, before they break Bulk, bring up their Ships to *James-City*, which, by reason of the seating of the Inhabitants in divers Rivers

Rivers cannot without much prejudice to the said Masters extend to all parties of the Countrey; yet that his Majesties commands may as much as in us lyeth be effectually obeyed; We the Governour, Councel, and Burgesses of this Grand Assembly, have thought fit to Enact, And be it Enacted by the Authority aforesaid, That all Ships whatsoever arriving in *James-River*, do accordingly with the first fair wind and weather, after their arrival, bring up their Ships to *James-City*, and there make Entry of their Ships, take out Licence to Trade, and perform such other things as they shall be there certified, the Laws of the Countrey do enjoin them.

CXXXIV.

Priviledge of Virginia-Owners.

Whereas some doubts have arisen about the priviledge of *Virginia*-owners, and their Exemption from the payment of the Duties of two and ten shillings per Hogshead: Be it Enacted and Declared, That the said Priviledge is granted only to the Owners and Adventurers in such Vessels as solely and wholly belong to the Inhabitants of this Countrey; and not to such persons as are only Partners of Vessels whose other partners dwell in other Countreies, and the Governor be Judge of such Proprieties, and certifie the same to the Collectors.

CXXXV.

A Publike Notary appointed.

Whereas for want of a Publike Notary the Certificates and other Instruments to be sent out of this Countrey have not that credit given them in forreign parts as duly they ought: Be it therefore Enacted, that *Henry Randolph* Clerk of the Assembly, be authorized and sworn a Publike Notary for this Countrey. To whose attestation at home and abroad, we desire all credence may be given.

CXXXVI.

CXXXV L

Acts concerning the Indians.

WHEREAS the mutual Discontents, Complaints, Jealousies and Fears of English and Indians, proceed chiefly from the violent Intrusions of divers English made into their Lands, forcing the Indians, by way of Revenge, to kill the Cattel and Hogs of the English; and by that means Injuries being done on both sides, Reports and Rumours are spread of the Hostile Intentions of each to others, tending infinitely to the disturbance of the Peace of His Majestie's Country: And whereas the Laws prohibiting the Purchase of any Indian's Lands (unless acknowledged at General Courts or Assemblies; by reason it is as easie to affright them to a publick, as well as a private acknowledgement) are made fruitless, and ineffectuall; corrupt Interpreters often adding to this mischief, by rendering them willing to surrender, when indeed, they intended to have received a Confirmation of their own Rights, and a Redress of their wrongs, which mischiefs had they continued, must needs have involved the Country into an inevitable and destructive Warre. For Remedy of which Inconveniences, and that for the future, a sure equitable peace may be established, the Governor, Council, and Burgeses out of their tender care of Justice and the Peace of this His Majestie's Country, have enacted, ordained, and confirmed, and do by these Presents, enact, ordain, and confirm, That, for the future,

No Indian King, or Other, shall upon any pretence, alien, or sell; nor no English, for any cause or consideration whatsoever, purchase or buy any Tract or Parcel of Land now justly claimed, or actually possessed, by any Indian or Indians whatsoever: All such bargains and sales hereafter made, or pretended to be made, being hereby declared to be invalid, void, and null; any Acknowledgement, Surrender, Law or Custom formerly used to the contrary notwithstanding. And further, That the Indian's Properties in their Goods, be hereby assured and confirmed to them; and their Persons so secured, that, whoever shall defraud, or take from them their Goods, or do hurt or injury to their Persons, shall make such satisfaction, and suffer such Punishments, as the Laws of England, or this Country, do inflict, if the same had been done to an English man.

And be it further enacted, That what Englishman hath already contrary to the Laws formerly in force, for surrendring and acknowledging Indian's Lands, made Incroachments, or seated upon them, shall, if they make not good proof of their Title, upon Complaint made, be, by Order directed to the Sheriff to execute, removed from

from their Seats of Land thus wrongfully inchoached; and all Houses by them built upon the said Lands, be demolished and burned.

And be it further enacted, That all English Men, having by surrenders made at *Quarter-Courts* or Assemblies, procured a colourable Right to any Land by the said English now seated within three Miles of any *Indians*, for prevention of the Injuries done to the *Indians*, by the said Englishmens Hogs and Cattel, shall send such Number of hands, as they shall be appointed by Commissioners, to be authorized by the Governour, to help the *Indians* to fence in a Corn-field, proportionable to the Number of Persons, the said *Indian* Town doth consist of; and that after such fence once made sufficiently, according to Act of the Assembly, if the *Indians* keep it not in repair, what damages soever they shall afterwards sustain, shall be at the hazard, and sole loss, of them the said *Indians*.

And be it further enacted, That for the better relief of the poor *Indians*, whom, the seating of the English, hath forced from their wonted Conveniencies of oystering, fishing, and gathering *Tichaboe*, *Cortenions*, and other Wild-Fruits, by which they were wonted for a great part of the Year, to subsist: Be it therefore enacted, granted, and confirmed, That the said *Indians*, upon Address made to two of the Justices of that County, they desiring to oyster or gather Wild-Fruits in, as aforesaid, they the said Justices shall grant a Licence to the said *Indians*, to oyster, or gather Wild-Fruits, as aforesaid: Provided, the said Justices limit the time the *Indians* are to stay; and the *Indians* bring not with them any Guns, or Ammunitions, or other offensive Weapons, but only such Tools or Implements, as serve for the end of their coming. And if any Englishman shall presume to take from the *Indians* so coming in, any of their Goods, or shall kill, wound, or main any *Indian*, he shall suffer, as if he had done the same to an Englishman, and be fined for his Contempt.

And because many under-hand and unlicensed Traders do truck and Trade with the *Indians* (contrary to the Act of Assembly, and to the great prejudice of all such, as legally procure Commissions from the Governour) under pretence, that the things trucked for, be given them by the *Indians*: Be it therefore enacted, That what Persons soever, shall, upon any pretence whatsoever, buy, take, or receive any thing or commodity from an *Indian*, shall, upon proof thereof at any Court, be ordered to pay treble the value of the thing received, to the Person injured thereby.

And because sometimes Differences may arise between the *Indians*, and those they trade with, which, if we should proceed by way of Arrest, might tend much to the Disturbance of the peace of the Country: Be it therefore enacted, That any Commissionated Trader, having a difference with any *Indian* King, or Officer, shall repair to the Governour for him, or such other as he shall appoint, to determine the matter in controversy between them.

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And because the Imprisonment of an *Indian*, may bring a War upon the Country; and consequently, the making of Peace and War, being wrested out of those hands, it is, by his Majestie's Commission, intrusted into the power of every Individual in the Country: Be it therefore enacted, That no Person of what quality soever, presume to Imprison any *Indian* King, without a special Warrant from the Governour, and two of the Council, as they will answer the contrary at their utmost peril.

And because this Act cannot be put in Execution without Commissioners, to view the present Bounds of the English and *Indians*: Be it therefore enacted, That the Honourable Governour be desired and authorized to appoint uninterested Persons, Commissioners, to go, with Parties of Horse, to the several *Indian* Towns; and there to proclaim these and the following Articles of Peace between Us and the *Indians*; to settle the Bounds between us; and to appoint others of the most integrity, to fix the time, and assess the work; to help the *Indians* Fence, and all other things by this Act enjoyned; and, for prevention of future Intrenchments beyond the bounds once fixed, Be it further enacted, That the Governour be desired and authorized to Commissionate certain Persons annually to visit the same. and to take care, that no Intrenchment be henceforth made upon the *Indians*.

And because an Interval between the *Indians* cannot, in the present nearness of seating, be so laid out, as may wholly secure the English from the *Indians* coming in, and pilfering things from them, if a free intercourse be admitted: Be it therefore enacted, for prevention thereof, and to the end, that the Nations may be distinguished; and so, if they are taken in the manner of doing any Injuries, the sufferers know to what Kings to address themselves for remedy; That Badges (*viz.* Silver-Plates, and Copper-Plates, with the name of the Town graved upon them) be given to all adjacent Kings, within our Protection. And that all the said Kings give it in Charge to their people, that none of them presume, upon what occasion soever, to come within the English bounds, without those Badges upon them, or one with a badge in their Company; and if any Damage or Injury be done to any Englishman, by them, or any of them, that then the King, or Great-man of the Place, the badges denote, shall be answerable for it. And, if any shall, notwithstanding this Injunction, be found in our bounds, without any such badge, or not accompanied with one that shall have them; that then it shall be lawful for any Englishman, to carry him, or them, before any Justice of the Peace, who shall keep him, or them in safe Custody, until their King, or Great-man, ransom them by paying one hundred Arms-length of Roranoke, for each *Indian* so taken, to be disposed of by the Publick: Provided alwayes, That if any Englishman shall be found, or proved, to have taken away any of their Badges, thereby

thereby to make the *Indians* guilty of breaking this Law; that then the Person so offending, shall be set in the Pillory two hours on the Court-day, in the County where they have committed the Offence, with their Fault in Great Letters written upon them; and to be fined Five Thousand Pounds of Tobacco, to the use of the Publick; and, in case of disability, lye six Months in Prison without Bail or Main-prize.

And be it further Enacted, That all *Indian* Kings, Tributary to the English, when they have the least notice of any March by any strange *Indians*, neer our Quarters, shall repair themselves, or at least, send some one of their Great-men to the next of the *Militia*, which shall be nominated and appointed by the Governour, for that purpose; and acquaint him, with as much as they know, concerning the Nation, the Numbers, and which way they conceive, they will bend their Course. And, if they then shall desire any aid from us, to secure them, that a Party be sent presently out by the Colonel of the *Militia*, to that purpose; which by this Our Assistance and Reciprocal care will make them and us have an equal Interest in others preservation; while on the other side, we being ignorant of the Marches of Forreiners, impute all Damages, we then receive, which is then commonly most to our Neighbours, how Innocent soever.

And be it further enacted, That if any *Indian* by the Inveighling of any English, or of his own will, shall without leave of the King, or Great-man of the place, come within the Bounds limited them, and there procure harbour or entertainment, it shall be lawful for any Englishman, to take the said *Indian*, and convey him to his Town to be punished; and to recover of the Englishman, that harboured or entertained him, so much *per* day, as by the Law for entertaining other Run-aways, is recoverable.

And be it further enacted, That what Englishman, Trader, or Other, shall bring in any *Indians*, as Servants, and shall assign them over to any other, shall not sell them for Slaves, nor for any other time, then English of the like ages, should serve by Act of Assembly.

And because heretofore many entertained *Indians* by Licenses of particular Persons, who did much Damage to their Neighbours, Be it henceforth enacted, That no Person of what quality soever, shall entertain any of our Neighbouring *Indians*, as servants, or otherwise, unless by a License obtained from the Governour himself, upon their Obligation, that desire it, to be answerable for all the Injuries and Damages, that the *Indians*, by them entertained, shall do to any English.

CXXXVII.

Clerks Fees to be paid.

WHereas by a former Act of Assembly, Clerks of Courts were made incapable of recovering their Fees, after they had been two years Due: Be it enacted, That the said Act be repealed; and that all their Accounts shall be three years pleadable. And that hereafter, all Sheriffs, or Collectors, shall either receive, distrain for, or secure by Bill, all Secretary, or Clerk of Courts Accounts, delivered them, and be allowed ten *per cent.* for what is received; and five *per cent.* for what Bills are taken. And the Sheriff, or other Collector, not receiving or securing, as aforesaid, to be responsible for the Account omitted: Provided, that they, the said Sheriff, or Collectors, shall not be liable for the Account of any Person removing out of the County, before the laying the levy, unless they receive the Levies, or Sheriff's Fees: And then to be accountable for the Clerk's Fees also: Provided also, That the Clerks deliver, or send their Accounts attested under their hands, to the said Sheriff or Collectors, within four dayes after, laying the Levy in their several Counties.

The Secretarie's Fees.

Be it enacted and confirmed by this present Grand Assembly, That the Secretarie's Fees shall be as followeth (*viz.*)

	<i>℞ Tabac.</i>
<i>Inprimis</i> For a Patent and Recording it	0080
For a Commission of Administration, and Recording it	0060
For a Probate, and Recording it	0060
For a Commission to Trade	0050
For a Deposition	0015
For a Bond, and Recording it	0040
For a Copy of a Patent	0030
For Recording a Letter of Attorney	0030
For Recording a Will	0030
For a Common Warrant	0015
For an Order	0015
For a Copy of an Order	0015
For Recording a Bill or Receipt	0010
For an Execution	0030
For a Pass	0030
For a Subpoena	0015
For a Petition, if writ	0015
	For

For a Certificate for Land	0015
For a Copy of an Act of Assembly	0015
For Recording a Bill of Sale, or such like	0030
For a Commission for the Militia or Court	0050

County-Courts Clerks-Fees;

Be it also further enacted, That the *County-Courts Clerk's Fees* be;
as followeth, (*viz.*

<i>Inprimis</i> For an Action	0008
For Entering an Order	0008
For the Copy of an Order	0008
For an Execution	0015
For an Attachment	0015
For a Deposition	0010
For a Copy of a Deposition	0010
For Administrations and Probates, both at	0060
For a Subpoena	0010
For a Petition, if they write it	0010
For Entry of a Petition	0005
For a Certificate for Land	0010
For any other Certificate	0010
For Recording of any business, Orphans excepted,	0030
For Recording Inventories and Conveyances	0030
For a <i>Scire facias</i> in any Court	0010

And if any thing else be done by them, than what is here expressed, the Commissioners to adjudge the Fee.

The Sheriff's Fees.

Be it also enacted, That the Sheriff's Fees shall be as followeth, *viz.*

<i>Inprimis</i> for an Arrest	0010
For Bond	0005
For going into Prison	0010
For whipping	0010
For Pillory	0010
For serving a Subpoena	0010
For serving an Execution, if under 100 pounds of Tobacco	0010
If above one hundred to five hundred	0030
If above five hundred to one thousand	0040
If unto two Thousand	0060
If above Two Thousand, Ten Pounds per Thousand.	

For Summoning and Impannelling a Jury for every Cause, Twelve pounds of Tobacco; and for every person summoned five pounds of

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of Tobacco. Attachments, as for Arrests, and if further trouble to be
afforded by the Court.

And whereas some of the Sheriffs Fees, upon Execution, have here-
tofore seemed to have been Arbitrary; this Assembly hath thought fit
to ascertain them, and to Enact, that he shall have, for summoning
every Apprizer, Ten pounds of Tobacco; and the Apprizer to have
Thirty pound of Tobacco, *per cause*, if they finish it in one day; and
10 *per day*, if they are longer about it.

The Clerk of the Assemblies Fees.

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It is Enacted, by this present Grand Assembly, that the Clerk of
the Assemblies Fees, shall be as followeth;

For Entry of a cause by return, plea, or Petition
For an Order, and Copy of an Order
For Denyzation
For Naturalizing
For County Courts Commissions
For Militia Commissions, if granted by Assembly
For Copying the Acts of every Assembly
For the whole body of the Acts writing
For attesting Act of Assembly. Copying Answer and Replies.

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CXXXVIII

Interpreters made for the Country.

Whereas Colonel *Fohn Flood*, hath long and faithfully served
this Country, in the Office of an Interpreter, and being now
deceased; It is Enacted, That *Thomas Flood*, son to the said Colonel
Fohn Flood, shall be received in the place of his Father; and that
Henry Newcombe be likewise made Interpreter for the *Neerind*.

This is a true Copy of the Acts of Assembly now in force,
and agreeth with the Original in the Records.

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Teste *Henr. Read* Cl. Assen.

In Witness Whereof, Ten Pounds of Tobacco

IN WITNESS

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as they are PRINTED.**

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